

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION MDL No. 2804
OPIATE LITIGATION Case No. 17-md-2804

This document relates to: Judge Dan
Aaron Polster

The County of Cuyahoga v. Purdue
Pharma, L.P., et al.
Case No. 17-OP-45005
City of Cleveland, Ohio vs. Purdue
Pharma, L.P., et al.
Case No. 18-OP-45132
The County of Summit, Ohio,
et al. v. Purdue Pharma, L.P.,
et al.
Case No. 18-OP-45090

Videotaped Deposition of Joseph Rannazzisi
Washington, D.C.
April 26, 2019
8:37 a.m.

Reported by: Bonnie L. Russo
Job No. 3301876

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Videotaped Deposition of Joseph Rannazzisi held
at:

Williams & Connolly, LLP
725 12th Street, N.W.
Washington, D.C.

Pursuant to Notice, when were present on behalf
of the respective parties:

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 Patrick J. Forrest, United States Department of
 Justice, Drug Enforcement Administration
 Daniel Russo, Videographer

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(Exhibits included with transcript.)

P R O C E E D I N G S

THE VIDEOGRAPHER: Good morning. We
 are going on the record at 8:37 a.m. on April
 26, 2019.

Please note that the microphones are
 sensitive and may pick up whispering, private
 conversations and cellular interference.
 Please turn off all cell phones or place them
 away from the microphones as they can interfere
 with the deposition audio. Audio and video
 recording will continue to take place unless
 all parties agree to go off the record.

This is Media Unit 1 of the
 video-recorded deposition of Joseph Rannazzisi
 taken by counsel for defendant in the matter of
 In Re: National Prescription Opiate filed in
 the United States District Court for the
 Northern District of Ohio, Eastern Division,
 Case No. 17-MD-2804.

This deposition is being held at
 Williams & Connolly located at 725 12th Street,
 Northwest, Washington, D.C.

My name is Daniel Russo from the
 firm of Veritext Legal Solutions. I'm your

1 videographer today. The court reporter is
2 Bonnie Russo from the firm Veritext Legal
3 Solutions.

4 Counsel and all present in the room
5 and everyone attending remotely will now state
6 their appearances and affiliations for the
7 record, please.

8 MR. EPPICH: Chris Eppich of
9 Covington & Burling for McKesson.

10 MS. MONAGHAN: Meghan Monaghan of
11 Covington & Burling for McKesson.

12 MS. MAINIGI: Enu Mainigi, Williams
13 & Connolly for Cardinal.

14 MS. McNAMARA: Colleen McNamara of
15 Williams & Connolly for Cardinal.

16 MS. VENTURA: Catie Ventura from
17 Kirkland & Ellis for Allergan.

18 MR. LIVINGSTON: Scott Livingston,
19 Marcus & Shapira for defendant HBC.

20 MR. TYE: Michael Tye of Arnold &
21 Porter for Endo.

22 MS. WINCKEL: Emilie Winckel of
23 O'Melveny & Myers for J&J and Janssen.

24 MR. STEPHENS: Neal Stephens from
25 Jones Day for Walmart.

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1 MR. DAVISON: William Davison from
2 Ropes & Gray for Mallinckrodt and Specgx LLC.

3 MR. O'CONNOR: Andrew O'Connor from
4 Ropes & Gray for Mallinckrodt.

5 MS. O'GORMAN: Debra O'Gorman from
6 Dechert for Purdue.

7 MS. CONROY: Mildred Conroy from The
8 Lanier Law Firm for plaintiffs.

9 MR. FULLER: Mike Fuller for the
10 plaintiffs.

11 MR. FARRELL: Paul Farrell, Jr., for
12 the plaintiffs.

13 MS. SINGER: Linda Singer, Motley
14 Rice, for the plaintiffs.

15 MR. FINKELSTEIN: David Finkelstein,
16 Department of Justice for the DEA.

17 MR. BENNETT: James Bennett from the
18 U.S. Attorney's Office for the Northern
19 District of Ohio for the United States, the DEA
20 and the witness in his official capacity.

21 MR. UTTER: Greg Utter here on
22 behalf of Mr. Rannazzisi as his personal
23 counsel.

24 SPECIAL MASTER COHEN: David Cohen,
25 Special Master.

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1 MR. FORREST: Patrick Forrest, Drug
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3 MS. BACCHUS: Renee Bacchus, U.S.
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8 MR. FELDMAN: Larry Feldman on
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10 MS. MOORE: Kelly Moore on behalf of
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12 MR. STOFFELMAYR: Kaspar
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14 MR. HOBART: Geoffrey Hobart from
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16 MS. WICHT: Jennifer Wicht from
17 Williams & Connolly for Cardinal Health.

18 MR. MATTHEWS: James Matthews for
19 Anda.

20 MR. RUIZ: Anthony Ruiz, Zuckerman
21 Spaeder for CVS Indiana, LLC and CVS Rx
22 Services.

23 THE VIDEOGRAPHER: Anyone on the
24 call that wants to identify themselves, please
25 speak up.

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1 MR. LADD: Matthew Ladd from Morgan
2 Lewis on behalf of Rite Aid.

3 MR. PADGETT: Bill Padgett on behalf
4 of H.D. Smith.

5 MR. BEISELL: Patrick Beisell from
6 Jones Day on behalf of Walmart.

7 MS. BARBER: Maureen Barber from
8 Morgan Lewis on behalf of the Teva defendants.

9 THE VIDEOGRAPHER: Will the court
10 reporter please swear in the witness.

11
12 JOSEPH RANNAZZISI,
13 being first duly sworn to tell the truth, the
14 whole truth and nothing but the truth,

15 testified as follows:

16 THE VIDEOGRAPHER: You may proceed,
17 Counsel.

18 EXAMINATION BY COUNSEL FOR MCKESSON

19 BY MR. EPPICH:

20 Q. Good morning, Mr. Rannazzisi. My
21 name is Chris Eppich, I represent McKesson in
22 this litigation and I will be asking you some
23 questions this morning.

24 Please state your full name for the
25 record.

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1 A. Joseph Thomas Rannazzisi.

2 Q. Have you been deposed before, Mr.
3 Rannazzisi?

4 A. I have been through a lot of
5 different types of testimony. I just don't
6 recall if I have ever been deposed.

7 Q. That's fair. Let me -- let me just
8 review some of the ground rules for depositions
9 before we get in.

10 You have probably noticed the court
11 reporter is taking down everything that we say
12 and so to make her record clear and her life a
13 little easier, we will need to talk one at a
14 time. I will ask my questions and then just
15 ask that you wait before I finish before you
16 start with your answers.

17 Does that make sense?

18 A. Yes, sir.

19 Q. Rather than shaking your head or
20 nodding, if you could give a verbal response to
21 my questions.

22 A. Yes, sir.

23 Q. If I ask a question and I am not
24 clear, you don't understand, just let me know
25 and if you don't let me know, I will assume you

1 understand the scope of my question.

2 Does that make sense?

3 A. Yes, sir.

4 Q. Now is there anything that would
5 prevent you from testifying completely and
6 truthfully today?

7 A. No, sir.

8 MR. EPPICH: Let me mark as Exhibit

9 1.

10 (Deposition Exhibit 1 was marked for
11 identification.)

12 MR. EPPICH: Exhibit 1 is the second
13 amended notice of videotaped deposition of
14 Joseph Rannazzisi.

15 MS. SINGER: Excuse me one second,
16 Counsel. Do you have copies for the plaintiffs
17 too?

18 BY MR. EPPICH:

19 Q. Sir, have you seen Exhibit No. 1
20 before?

21 A. No, sir.

22 Q. You haven't seen it?

23 You didn't review it in preparation
24 for today's deposition?

25 A. No.

1 Q. If I you could turn with me to the
2 letter that is Exhibit A, four or five pages
3 in. Now, this letter is prepared by the U.S.
4 Department of Justice.

5 Have you seen this letter before?

6 A. Yes, I have.

7 Q. And you understand Exhibit A to be
8 a -- a letter from the DEA authorizing your
9 testimony on certain subjects today?

10 A. Yes.

11 Q. You were the head of DEA's Office of
12 Diversion Control from 2005 to 2015; is that
13 right?

14 A. Approximately July of 2005 to '15,
15 yes.

16 Q. July of 2005 to what month in 2015?

17 A. October. October 31st, 2015.

18 Q. Halloween. One of my favorite days.

19 A. Uh-huh.

20 Q. Now, between 2005 and 2015, you were
21 the senior-most law enforcement official at the
22 DEA responsible for pharmaceutical diversion?

23 A. Yes, sir.

24 Q. Was -- was there an opioid crisis
25 the entire time you were the head of the Office

1 of Diversion Control?

2 MR. BENNETT: Objection. Calls for
3 speculation.

4 You can answer.

5 MS. SINGER: Excuse me one second.

6 Can we ask the people on the phone
7 to mute, please.

8 MR. UTTER: Go ahead. You can
9 answer.

10 THE WITNESS: Yes. Yes. There was
11 an opioid crisis during that time period.

12 BY MR. EPPICH:

13 Q. And was the opioid crisis getting
14 worse every year you were the head of the
15 Office of Diversion Control?

16 MR. BENNETT: Same objection.

17 THE WITNESS: Overdoses -- overdose
18 deaths increased, yes.

19 BY MR. EPPICH:

20 Q. As head of the Office of Diversion
21 Control, you were responsible for oversight and
22 control of all regulatory compliance,
23 inspections, and civil and criminal
24 investigations of approximately 1.6 million DEA
25 registrants; isn't that correct?

1 A. Yes.

2 Q. And you provided leadership to a
3 team of 300 personnel?

4 A. Direct -- direct report,
5 approximately -- you know, in headquarters,
6 approximately 300, yes.

7 Q. And you controlled and operating
8 budget of approximately \$350 million, correct?

9 A. Yes.

10 Q. Now, Mr. Rannazzisi, every entity
11 that is involved with getting opioids to
12 patients has to be registered with the DEA,
13 correct?

14 A. Could you repeat that question.

15 Q. Every entity that is involved with
16 getting opioids to patients has to be
17 registered with the DEA.

18 A. No. That's not correct.

19 Q. Which entities do not have to be
20 registered?

21 A. Nurses, pharmacists. They have
22 no -- they're not registered.

23 Q. But manufacturers have to be
24 registered?

25 A. Yes.

1 Q. Distributors have to be registered?

2 A. Yes.

3 Q. Pharmacies have to be registered?

4 A. Yes.

5 Q. And doctors have to be registered?

6 A. Yes.

7 Q. Now, none of those individuals or
8 entities can lawfully handle opioids without
9 DEA registration.

10 A. Yes.

11 Q. Now, DEA can, when it determines it
12 is legally appropriate, suspend or revoke a DEA
13 registration.

14 A. Yes.

15 Q. For example, that's a way the DEA
16 has to cut off a diverting registrant?

17 A. Repeat that question again, please.

18 Q. DEA's authority to suspend or revoke
19 a DEA registration is a way for DEA to cut off
20 a diverting registrant; isn't that correct?

21 A. That authority, we could stop a
22 registrant from conducting transactions with
23 controlled substances, yes.

24 Q. Yes.

25 You could cut them off, correct?

1 A. Yeah. Stopping transactions, yes.
2 Cutting them off.

3 Q. In fact, it's -- it's DEA's
4 responsibility to do its best to ensure that
5 anyone who is registered to DEA or by DEA is
6 acting appropriately.

7 MS. SINGER: Objection. Vague.

8 MR. BENNETT: Join that objection.

9 THE WITNESS: It's DEA's
10 responsibility to ensure that the registrant
11 population is complying with the code of
12 federal regulations 21 C.F.R. and also 21 USC,
13 United States code.

14 BY MR. EPPICH:

15 Q. You're familiar with the ARCOS
16 database?

17 A. Yes, I am.

18 Q. Manufacturers and distributors are
19 required to report data to ARCOS on every
20 single controlled substance transaction?

21 A. Yes.

22 Q. DEA can then make use of that data,
23 can't it?

24 MR. BENNETT: Objection. Vague.

25 THE WITNESS: DEA does use that

1 data.

2 BY MR. EPPICH:

3 Q. And using ARCOS, DEA monitors the
4 flow of DEA-controlled substances from their
5 point of manufacture through commercial
6 distribution channels to point of sale or
7 distribution to the dispensing retail level?

8 MS. SINGER: Objection. Foundation.

9 MR. BENNETT: Objection. Vague.

10 THE WITNESS: DEA can use that
11 system to monitor transactions downstream.

12 BY MR. EPPICH:

13 Q. And that's downstream from the
14 manufacturers all the way to the retail level,
15 correct?

16 A. Yes. I believe so.

17 SPECIAL MASTER COHEN: Just a
18 minute, please.

19 We're still hearing folks on the
20 phone. If you are on the phone, please mute
21 yourself.

22 BY MR. EPPICH:

23 Q. So, Mr. Rannazzisi, using ARCOS, DEA
24 can see the number of opioids sold by
25 manufacturers to distributors?

1 A. Yes.

2 Q. And using ARCOS, DEA can see the
3 number of opioids distributed by distributors
4 to pharmacies, hospitals and doctors?

5 A. Yes.

6 Q. Registrants did not have access to
7 ARCOS data during your -- the time you led the
8 Office of Diversion Control, correct?

9 A. They had access to their own data
10 that they submitted to ARCOS. But no, not
11 other.

12 Q. So registered --

13 A. From the ARCOS.

14 Q. Pardon me.

15 Registrants had no access to the
16 ARCOS database, correct?

17 A. Except for their own entries, yes.

18 Q. Their own entries that's they
19 submitted?

20 A. Yes, that they submitted.

21 Q. But they couldn't access those
22 entries through the ARCOS database, could they?

23 A. I'm not sure about that.

24 Q. There was no portal that you were
25 aware of that a registrant could log into to

1 see their own data in the ARCOS database?

2 A. Again, I'm not sure about that.

3 Q. Registrants requested ARCOS data
4 from DEA at various times, but DEA declined to
5 share it, correct?

6 MR. BENNETT: Objection. Compound.

7 MS. SINGER: Objection. Foundation.

8 THE WITNESS: Just answering the
9 question in order --

10 MR. EPPICH: Yes.

11 THE WITNESS: -- registrants have
12 requested access to ARCOS that -- for that
13 data. And they have been declined, yes.

14 BY MR. EPPICH:

15 Q. But after you left the DEA, it's
16 true that DEA decided registrants should be
17 allowed to access some ARCOS data, correct?

18 MR. BENNETT: Objection.

19 THE WITNESS: I wouldn't know about
20 that.

21 BY MR. EPPICH:

22 Q. You don't read the press releases
23 from the DEA?

24 MR. BENNETT: Objection.

25 THE WITNESS: Again, I -- I have no

1 direct knowledge of what the DEA did or what
2 information they were allow -- they released.

3 BY MR. EPPICH:

4 Q. Sitting here today, are you aware
5 that registrants can access some data from the
6 ARCOS database?

7 MR. UTTER: Object. Just answer the
8 question.

9 MR. BENNETT: Objection.

10 MS. SINGER: Asked and answered.

11 MR. UTTER: You can answer again.

12 THE WITNESS: Again, I don't have
13 any direct knowledge of what they have access
14 to.

15 BY MR. EPPICH:

16 Q. I understand that you're testifying
17 that you have no direct knowledge. I'm asking
18 you if you have any knowledge.

19 MR. BENNETT: Objection.

20 MR. UTTER: Objection. Speculation.

21 Go ahead. You can answer.

22 MR. BENNETT: Objection. Asked and
23 answered.

24 THE WITNESS: Again, I understand
25 that there was some information that's been

1 provided to the industry. But I don't know
2 exactly what information that is.

3 BY MR. EPPICH:

4 Q. And I'm only asking you whether or
5 not you know that some information was provided
6 to registrants in the ARCOS database.

7 MR. UTTER: For the forth time --

8 MS. SINGER: Objection. Asked and
9 answered.

10 MR. UTTER: -- you can answer the
11 question. And I'm not going to let you do it
12 again.

13 THE WITNESS: Again, I'm aware that
14 something from ARCOS has been allowed to be
15 released to the registrants. Correct. But I'm
16 not aware of what that is.

17 BY MR. EPPICH:

18 Q. Do you agree that this is a good
19 change?

20 MS. SINGER: Objection.

21 MR. BENNETT: Objection.

22 MR. UTTER: Object.

23 THE WITNESS: Again, it's -- I don't
24 know exactly what they're releasing and how
25 they're releasing it.

BY MR. EPPICH:

Q. Would you agree that access to ARCOS helps registrants combat diversion of controlled substances?

MR. BENNETT: Objection.

THE WITNESS: Not necessarily.

MR. BENNETT: Scope.

BY MR. EPPICH:

Q. And why not?

A. Because --

MS. SINGER: Objection. Scope.

MR. BENNETT: Objection. Scope.

THE WITNESS: I was --

MR. UTTER: Go ahead.

THE WITNESS: Because industry had other tools at their disposal to see downstream transactions that were not listed as business or proprietary.

BY MR. EPPICH:

Q. But ARCOS -- strike that.

But distributors could not see, without ARCOS, the amount of controlled substances each distributor sold to a particular customer, correct?

A. There were systems that were outside

of ARCOS that could be accessed, purchased to see that information.

Q. What systems were those?

A. IMS data.

MS. SINGER: Scope.

THE WITNESS: Any aggregated data.

BY MR. EPPICH:

Q. Does the IMS data or aggregated data include all of the information that's contained within the ARCOS database?

A. I don't know if that's correct, no.

Q. DEA established quotas for controlled substances for each year, didn't they?

A. Yes, sir.

Q. Quotas are set based on the estimated medical scientific research and industrial needs of the United States?

A. Yes, sir.

Q. Your office, the Office of Diversion Control, was responsible for setting quotas?

A. Yes, sir.

Q. And as head of the Office of Diversion Control, it was your responsibility to authorize quotas from 2005 to 2015?

A. I authorized the letters. The actual quota is authorized by the administrator. It's a delegated function down to me for the letters.

Q. But you're part of the process for authorizing a quota, aren't you?

A. Yes, sir.

Q. And quota levels for opioids constantly increased under your watch, correct?

A. Yes, sir.

Q. And, in fact, quota levels -- quota levels for opioids increased significantly under your watch, correct?

MS. SINGER: Objection. Vague.

MR. BENNETT: Objection.

MR. UTTER: Same objection.

THE WITNESS: They did increase.

But they increased because, by statute, we were required to look at certain things. So yes.

MR. EPPICH: Let's mark as Exhibit 2.

(Deposition Exhibit 2 was marked for identification.)

BY MR. EPPICH:

Q. Now, sir, Exhibit 2 is a chart dated

October 8, 2014, that was posted on DEA's web site titled "Aggregate Production Quota History For Selected Substances."

Are you familiar with this document?

A. Yes, sir.

MS. SINGER: Objection. Foundation for the document.

BY MR. EPPICH:

Q. The aggregate production quotas that are reflected in Exhibit 2, these were the quotas while you were the head of the Office of Diversion Control, correct?

A. Yes.

Q. Now, I'd like to look at a couple of these numbers today. If we -- if we go on the left side under "Controlled Substance" to Hydrocodone.

Do you see that, sir?

A. Yes, sir.

Q. And if we look under year 2005, the quota appears to be 37,604 kilograms, correct?

A. Yes.

Q. And as we go across the document to 2015, the quota is, in 2015, 99,625 kilograms; is that correct?

1 A. Yes.

2 Q. Now, that's -- that's over a hundred
3 percent increase in the Hydrocodone quota by
4 DEA under your leadership.

5 Do you see that?

6 A. It is an increase, yes.

7 Q. It's a -- over a hundred percent
8 increase, isn't it?

9 A. Yes.

10 Q. Now, let's look at oxycodone. In
11 the oxycodone line we'll look at the "Sale"
12 line. The quota level for 2005 is 50,490
13 kilograms.

14 Do you see that?

15 A. Yes.

16 Q. And looking at the year 2015, the
17 quota level is 137,500 kilograms.

18 Do you see that?

19 A. Yes.

20 Q. And that's over 150 percent increase
21 in the oxycodone quota under your leadership.

22 Do you see that?

23 A. Yes, close. Close to it, yeah.

24 Q. Now, by increasing the quota year
25 after year, DEA was telling registrants and the

1 public pain medication should be available to
2 support the legitimate medical needs; isn't
3 that correct?

4 MS. SINGER: Objection. Vague.

5 Objection. Scope.

6 THE WITNESS: No. That's not
7 correct.

8 MR. EPPICH: Well, let me -- let me
9 -- let me show you a statement from the DEA's
10 web site.

11 And we'll mark this as Exhibit No.

12 3.

13 (Deposition Exhibit 3 was marked for
14 identification.)

15 BY MR. EPPICH:

16 Q. Now, Exhibit 3 is a printout of the
17 DEA's web site where the DEA posted a joint
18 statement from DEA and 21 health organizations
19 on October 23, 2001.

20 MR. UTTER: Excuse me a moment. If
21 you're going to ask the witness about a
22 document, please give him a moment to review
23 the document.

24 MR. EPPICH: Absolutely.

25 MR. UTTER: And he'll let you know

1 when he's done reviewing the document.

2 Is that all right?

3 MR. EPPICH: No problem.

4 MR. UTTER: Thank you.

5 MS. SINGER: Object to this
6 document. It doesn't have a date.

7 MR. EPPICH: The date's on Page 1,
8 Ms. Singer.

9 You see the October 23, 2001 date
10 next to the DEA link?

11 MS. SINGER: Yes. But again,
12 there's no source from where this came from.

13 My objection is noted for the
14 record.

15 MR. EPPICH: Yes, ma'am.

16 BY MR. EPPICH:

17 Q. Have you had a chance to review
18 Exhibit 3, sir?

19 A. Yes.

20 Q. Have you seen Exhibit 3 before?

21 A. Never.

22 Q. I'd like to turn to Page 2, the
23 letter -- excuse me -- the joint statement that
24 you've been reviewing.

25 A. Uh-huh.

1 Q. In the fourth paragraph, the DEA and
2 these 21 health organizations say: "This
3 consensus statement is necessary based on the
4 following facts."

5 Do you see that?

6 A. Yes.

7 Q. And the -- the first bullet
8 underneath that paragraph states:
9 "Undertreatment of pain is a serious problem in
10 the United States, including pain among
11 patients with chronic conditions and those who
12 are critically ill or near death. Effective
13 pain management is an integral and important
14 aspect of quality medical care, and pain should
15 be treated aggressively."

16 Do you see that?

17 A. I do see that.

18 Q. You treat pain aggressively with
19 pain medication, right?

20 MR. BENNETT: Objection. Scope.
21 Objection. Foundation.

22 MR. UTTER: Just object to whether
23 he has the background to answer the question.

24 But go ahead.

25 THE WITNESS: Not necessarily.

BY MR. EPPICH:

Q. Well, let's look at Bullet 2: "For many patients, opioid analgesics" -- I'm sure I pronounced that wrong.

A. Analgesics.

Q. -- "analgesics, when used as recommended by established pain management guidelines, are the most effective way to treat their pain and often the only treatment option that provides significant relief."

This is a statement on the DEA's web site.

MR. BENNETT: Objection.

MR. UTTER: Hold on.

MR. BENNETT: Foundation.

MR. UTTER: Hold on.

Is there a question?

MR. EPPICH: I asked him if this was a statement on the DEA's web site.

THE WITNESS: I have no idea.

MS. SINGER: Objection. Foundation.

MR. UTTER: He's answered it.

THE WITNESS: I have no idea. I've never seen this document. And this document does not comport to current or -- or post-2004

-- I -- I don't -- I've never even seen this. I have no idea where this came from. I don't know who wrote it.

And -- and, quite frankly, there's no DEA signature; there's no DEA -- there's no document that -- this document has no -- I have no idea where this document came from, where in DEA it came from, or who might have signed off on this document. But it wasn't me. Because in 2001 I was not in headquarters.

BY MR. EPPICH:

Q. Well, I printed this document from the DEA's web site yesterday.

MR. BENNETT: Objection.

BY MR. EPPICH:

Q. And it --

MS. SINGER: Objection. Testifying.

BY MR. EPPICH:

Q. And I -- and I'll say this statement was on your web site -- I'll strike that. I'll strike that.

Sitting here today, do you have any reason to doubt that this document was posted on the DEA web site during your tenure at the head of the Office of Diversion Control?

MR. UTTER: Object. Foundation.

MR. BENNETT: Objection. Foundation. Objection. Scope.

THE WITNESS: I have no idea.

BY MR. EPPICH:

Q. Following the distributor initiative -- you're -- you're familiar with the distributor initiative?

A. Yes, I am.

Q. Following the distributor initiative, distributors repeatedly asked DEA for guidance to clarify confusion in the industry, correct?

MS. SINGER: Objection. Lack of foundation.

THE WITNESS: I --

MR. BENNETT: Objection. Vague.

THE WITNESS: I have no idea what -- what time period, who was asking. I don't know.

BY MR. EPPICH:

Q. But when you were the head of the Office of Diversion Control, it's true that distributors were asking the DEA for guidance for suspicious order monitoring programs,

correct?

MR. BENNETT: Objection. Vague as to time.

MR. UTTER: Same objection.

THE WITNESS: Could you kind of narrow that a little? At what point in time?

Is it after the distributors signed their memorandum agreement saying that they would comply with the -- the 1301.74(b)? Was it after that or before that time?

BY MR. EPPICH:

Q. Well, you're aware of the distributor briefings that DEA held with each of the distributors?

A. Yes, I am.

Q. And those began in the fall of 2005, correct?

A. Yes.

Q. And they continued for several years, correct?

A. Yes.

Q. And throughout -- especially the first three or four years after the distributor briefings began, distributors raised questions with the DEA about the changes, correct?

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1 MR. BENNETT: Objection. Vague.
 2 MS. SINGER: Objection. Vague.
 3 THE WITNESS: I'm -- I'm kind of
 4 confused.
 5 What changes are you talking about?
 6 BY MR. EPPICH:
 7 Q. Well, DEA -- the -- the distributors
 8 raised questions --
 9 A. Well --
 10 Q. -- to DEA, correct?
 11 Questions that relate --
 12 MR. BENNETT: Object.
 13 BY MR. EPPICH:
 14 Q. -- to the -- the -- the comments
 15 made by DEA in the distributor briefings?
 16 A. And those distributor briefings were
 17 pretty extensive. And they were asked if they
 18 had any questions before they left. And they
 19 assured us that they understood what the rules
 20 were.
 21 Q. And the distributors continued to
 22 ask the DEA questions ever after those
 23 distributor briefings ended.
 24 MR. BENNETT: Objection. Vague as
 25 to time. Objection. Mischaracterizes

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1 testimony.
 2 MR. UTTER: Same objection.
 3 Go ahead.
 4 THE WITNESS: It was years later
 5 before we heard that, that they were confused.
 6 Years later.
 7 BY MR. EPPICH:
 8 Q. When did DEA hear that the
 9 distributors were confused?
 10 A. Had to be sometime around 2000 --
 11 the end of 2010 or early 2011.
 12 Q. And in response to that knowledge,
 13 did you provide guidance to distributors?
 14 A. If I remember correctly, there was
 15 meetings with individual distributors and also
 16 with HDMA.
 17 Q. But isn't it true that you
 18 affirmatively stated that it was DEA's policy
 19 not to approve any suspicious order monitoring
 20 programs?
 21 A. That was the position of the agency.
 22 And yes, that was stated in at least two of my
 23 letters to industry.
 24 Q. And it was DEA's policy not to tell
 25 registrants that an order is or is not

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1 suspicious, correct?
 2 A. Well, that's a business decision
 3 that only the -- the distributor could make.
 4 They're the only ones who know their
 5 customer. And they know what their customers
 6 are doing. And they know the -- the population
 7 around the customer's business. They know what
 8 is in the area that could warrant an increase
 9 or not.
 10 So DEA couldn't make that decision.
 11 It had to come as a business decision from the
 12 distributor.
 13 Q. So it was DEA's policy not to tell
 14 registrants that an order is suspicious?
 15 MS. SINGER: Objection.
 16 MR. BENNETT: Objection. Asked and
 17 answered.
 18 MS. SINGER: Objection. Scope.
 19 Calls for this witness's opinion on DEA policy.
 20 MR. UTTER: Go ahead.
 21 THE WITNESS: It was a business
 22 decision that would be made by the distributor
 23 whether an order is suspicious. And DEA made
 24 that very clear to the distributors.
 25 BY MR. EPPICH:

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1 Q. During your time as the head of
 2 Office of Diversion Control, it was DEA's
 3 policy not to tell a registrant if they should
 4 stop sales to a customer, correct?
 5 MS. SINGER: Same objection.
 6 THE WITNESS: There were due process
 7 concerns. And after consultation with
 8 counsel's office, we decided that that was not
 9 appropriate because of the due process
 10 concerns.
 11 BY MR. EPPICH:
 12 Q. So if a distributor came to you in
 13 2007 or '8 or '9 or '10 and said, "We -- we
 14 can't tell if this order is legitimate or
 15 suspicious," DEA would refuse to answer?
 16 MR. BENNETT: Objection. Compound.
 17 MR. UTTER: Object to the incomplete
 18 hypothetical.
 19 You can go ahead and answer if you
 20 understand all the elements of the
 21 hypothetical.
 22 THE WITNESS: Yeah. I'm trying to.
 23 Could you repeat that question,
 24 please.
 25 BY MR. EPPICH:

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Q. Sure.

If a distributor came to you while you were the head of the Office of Diversion Control and said, "We cannot tell if this order is legitimate or suspicious, the DEA would refuse to answer the distributor's question"?

MR. UTTER: Same objection.

Go ahead.

MS. SINGER: Objection.

THE WITNESS: Yeah.

MS. SINGER: Calls for speculation.

THE WITNESS: I mean I'd have to have more information than that.

BY MR. EPPICH:

Q. But as a general policy --

A. I can't answer.

Q. -- it would be DEA's -- it would be DEA's response to refuse to answer?

A. It's DEA's policy that they do not advise when to ship or when to file a suspicious orders. That's a business decision that, under the regulations, is maintained by the --

Q. This was the --

A. -- distributor.

Q. And this was the policy at DEA the entire time that you were the head of the Office of Diversion Control, correct?

A. It was --

MS. SINGER: Objection. Scope.

THE WITNESS: It was the policy of the agency.

BY MR. EPPICH:

Q. Now, Mr. Rannazzisi, I've listened to a lot of your interviews to prepare for this deposition. I've heard you blame a lot of people and entities for the opioid crisis.

Is that true?

MR. BENNETT: Objection. Argumentative.

MS. SINGER: Objection. Testifying.

MR. UTTER: Lacks foundation. Compound.

Go ahead.

THE WITNESS: Could you -- again, could you repeat the question.

BY MR. EPPICH:

Q. Well, it's true that you've blamed distributors for opioid crisis, isn't it?

MR. BENNETT: Objection.

Argumentative.

THE WITNESS: Based on the violations of the distributors in the past, yes, I have.

BY MR. EPPICH:

Q. And it's true that you've blamed the manufacturers for contributing to the opioid crisis?

MR. BENNETT: Same objection.

THE WITNESS: I have discussed the manufacturers' role, yes.

BY MR. EPPICH:

Q. And you've blamed the manufacturers, haven't you?

MR. BENNETT: Objection.

Argumentative.

MS. SINGER: Objection. Asked and answered.

THE WITNESS: Yes.

BY MR. EPPICH:

Q. And you've blamed pharmacies?

MR. BENNETT: Objection.

Argumentative.

THE WITNESS: Yes.

BY MR. EPPICH:

Q. You've blamed doctors?

MR. BENNETT: Same objection.

THE WITNESS: Yes.

BY MR. EPPICH:

Q. I've even heard you blame other divisions and individuals within DEA --

MR. BENNETT: Same objection.

BY MR. EPPICH:

Q. Isn't that true?

A. Blame other divisions concerning the opioid crisis.

Q. Yes, sir.

MS. SINGER: Objection. Scope.

THE WITNESS: I don't recall blaming other divisions.

BY MR. EPPICH:

Q. Well, you've blamed the Office of Chief Counsel within the DEA, correct?

MS. SINGER: Objection.

MR. BENNETT: Objection.

MS. SINGER: Scope.

THE WITNESS: We've -- chief counsel, in the normal process of moving cases through, we've had differences in cases, yes.

BY MR. EPPICH:

1 Q. You've criticized the Office of
2 Chief Counsel.
3 MR. BENNETT: Objection. Scope.
4 THE WITNESS: I don't recall ever
5 openly criticizing the Office of Chief Counsel.
6 BY MR. EPPICH:
7 Q. Well, maybe not openly, but in
8 communications within the agency, correct?
9 MR. BENNETT: Objection. Scope.
10 This witness is not authorized to
11 disclose attorney-client privileged
12 communications.
13 And to the extent that you can
14 answer that question without disclosing
15 communications that you have had with chief
16 counsel's office, you may answer. If your
17 answer requires you to disclose communications
18 that you've had with chief counsel's office,
19 then you may not answer.
20 THE WITNESS: It's communications
21 with chief counsel's office. I can't answer
22 that question.
23 BY MR. EPPICH:
24 Q. It's true that DEA controls the
25 closed system of drug distribution, right?

1 A. Yes.
2 MS. SINGER: Objection. Foundation.
3 MR. BENNETT: Objection. Vague.
4 BY MR. EPPICH:
5 Q. DEA registers all persons who handle
6 Section 2 controlled substances, correct?
7 MS. SINGER: Objection.
8 THE WITNESS: What is --
9 MS. SINGER: Mischaracterizes prior
10 testimony.
11 BY MR. EPPICH:
12 Q. I'm sorry. Schedule II controlled
13 substances.
14 A. And repeat the question, please.
15 Q. Yes. Let's strike that.
16 It's true that DEA registers all
17 persons and entities who handle Schedule II
18 controlled substances?
19 MR. UTTER: Object. Asked and
20 answered.
21 You may answer it again.
22 MS. SINGER: Objection.
23 Mischaracterizes prior testimony.
24 THE WITNESS: That's -- that's not
25 true.

1 BY MR. EPPICH:
2 Q. It's true the DEA registers all
3 manufacturers, distributors, pharmacies and
4 doctors that handle Schedule II controlled
5 substances?
6 A. That's true. If -- if their
7 registration allows them to handle
8 Schedule IIs, yes.
9 Q. And DEA inspects the documentation
10 of these registrants?
11 MR. BENNETT: Objection. Vague.
12 THE WITNESS: I'm -- I'm not sure
13 what you mean by documentation.
14 BY MR. EPPICH:
15 Q. Well, DEA -- DEA controls the amount
16 of controlled substances produced, bought, sold
17 or otherwise transferred between these
18 manufacturers, distributors, pharmacies and
19 doctors, correct?
20 MS. SINGER: Objection. Vague.
21 MR. BENNETT: Objection.
22 MR. UTTER: Objection. Lacks
23 foundation.
24 Go ahead.
25 THE WITNESS: I -- I'm not -- I'm

1 not -- I'm still not sure what -- what you mean
2 by -- when you mean -- you said controls the
3 amount of transaction. I don't understand
4 that.
5 Would you explain?
6 MR. EPPICH: I can strike that
7 question.
8 THE WITNESS: Yeah.
9 BY MR. EPPICH:
10 Q. When deciding to grant registration
11 to a manufacturer, distributor, pharmacy or
12 doctor, the DEA inspects documentation from
13 each of these potential registrants, correct?
14 A. You're talking about --
15 MS. SINGER: Objection. Vague.
16 THE WITNESS: You're talking about
17 --
18 MR. BENNETT: Same Objection.
19 THE WITNESS: -- registration
20 applications?
21 MR. EPPICH: Yes, sir.
22 THE WITNESS: Yes.
23 BY MR. EPPICH:
24 Q. And all of the materials that each
25 of these potential registrants submits with

1 their application, correct?

2 A. Yes.

3 Q. Are there many ways diversion can
4 occur -- there are many ways diversion can
5 occur, correct?

6 A. Yes.

7 Q. Opioids can be stolen from a
8 delivery truck?

9 A. Yes.

10 Q. That's diversion, correct?

11 A. That is.

12 Q. Someone can use opioids in a way
13 other than how they've been prescribed to them,
14 true?

15 A. That's not diversion.

16 Q. Someone can go into their
17 grandmother's cabinet, take the grandmother's
18 opioids that she got for a legitimate reason;
19 and that's diversion, isn't it?

20 A. Technically, yes, that's diversion.

21 Q. Someone could take opioids from a
22 friend who got them for a legitimate reason.
23 That's diversion.

24 A. Yes.

25 Q. In fact, you -- you would agree that

1 the vast majority of diversion occurs when
2 someone takes opioids from a friend or family
3 member?

4 MR. BENNETT: Objection.

5 MS. SINGER: Objection. Scope and
6 vague.

7 MR. BENNETT: Objection. Vague.

8 Objection. Incomplete hypothetical.

9 Objection. Scope.

10 MR. UTTER: Same objections.

11 Go ahead.

12 THE WITNESS: You know, no. I
13 wouldn't agree to that. There's many ways that
14 have nothing to do with taking something from a
15 family member.

16 BY MR. EPPICH:

17 Q. When asked what you would do
18 differently as the head of diversion control in
19 an interview, you said publicly that, "I would
20 not do anything differently. That's for sure."

21 Is that true?

22 MR. BENNETT: Objection.

23 Foundation.

24 MR. UTTER: Same objection.

25 Go ahead.

1 THE WITNESS: I don't remember
2 exactly what the context of that question was
3 when they asked me, what we were discussing at
4 the time. So I -- I -- I just don't think it's
5 something I could answer without looking at who
6 was interviewing me and what the interview was
7 about.

8 BY MR. EPPICH:

9 Q. Well, sitting here today, sir,
10 thinking about your career as the head of the
11 Office of Diversion Control, is there anything
12 you would do differently?

13 MR. BENNETT: Objection. Scope.
14 Objection. Vague.

15 MR. UTTER: Objection. Calls for
16 speculation.

17 Go ahead.

18 THE WITNESS: I don't know if -- I
19 don't know if I could answer that right now. I
20 just don't know. I mean this -- I would -- I
21 would have to sit back and think about
22 everything we did. And so I -- I just -- I
23 can't answer that right now.

24 BY MR. EPPICH:

25 Q. Well, would you give registrants

1 access to the ARCOS data?

2 MR. BENNETT: Objection. Calls for
3 speculation. Incomplete hypothetical.

4 MS. SINGER: Objection.

5 THE WITNESS: Again, I have no idea
6 how they -- what access they have to ARCOS.
7 And I was under different limitations, it
8 appears, than what they're doing today.

9 BY MR. EPPICH:

10 Q. But my question was whether or not
11 you would give them any access to ARCOS data if
12 you were to do it again.

13 MR. BENNETT: Objection.

14 BY MR. EPPICH:

15 Q. Not what they were doing today.

16 MR. BENNETT: Objection.
17 Speculation. Incomplete hypothetical. And
18 asked and answered.

19 MR. UTTER: Object. Assumes he had
20 the authority do that.

21 Go ahead. You can answer.

22 THE WITNESS: Again, I could only go
23 with what I could do when I was the head of the
24 Office of Diversion Control based on agency
25 policy in consultation with counsel and

1 counsel. And the agency made a decision that
2 ARCOS data was not -- was business proprietary
3 and was not going to be released in that
4 manner.

5 BY MR. EPPICH:

6 Q. Would you give registrants any more
7 information or guidance about suspicious order
8 monitoring programs and suspicious orders?

9 MR. BENNETT: Objection.
10 Speculation. Objection. Incomplete
11 hypothetical.

12 MR. UTTER: Go ahead.

13 MR. BENNETT: And objection. Scope.
14 Sorry.

15 THE WITNESS: I think that the
16 suspicious order monitoring regulation
17 1301.74(b) was -- the definition of suspicious
18 order is very straightforward.

19 I don't know what other information
20 I could provide to them to clarify what a
21 suspicious orders is without making a business
22 decision for them, which the regulations would
23 not allow me to do.

24 BY MR. EPPICH:

25 Q. Would you change the regulations --

1 MS. SINGER: Objection.

2 BY MR. EPPICH:

3 Q. -- if you were to go back?

4 MS. SINGER: Objection. Scope.

5 MR. BENNETT: Object --

6 THE WITNESS: I --

7 MR. BENNETT: Hold on.

8 Objection. Scope. Objection.

9 Calls for speculation. Objection. Incomplete
10 hypothetical.

11 I will also instruct the witness
12 that, to the extent there were internal
13 deliberations that were not made public by the
14 DEA during your time there, you are not
15 authorized to disclose those internal
16 deliberations.

17 MR. UTTER: Same objection.

18 Go ahead.

19 THE WITNESS: The problem is -- is
20 the regulation change was not under my
21 authority. The regulation change would be
22 under the authority of the administrator of the
23 Drug Enforcement Administration and Department
24 of Justice.

25 That's -- so whether I make that

1 decision or not, the final decision is the
2 Department of Justice and the Drug Enforcement
3 Administration leadership. So I -- I couldn't
4 answer that.

5 BY MR. EPPICH:

6 Q. And you have no role in that
7 process? You can't suggest a change?

8 MS. SINGER: Objection. Scope.

9 MR. BENNETT: Objection. Scope.

10 You are not authorized to disclose
11 internal deliberative process of the agency.
12 To the extent you can answer without disclosing
13 the internal deliberative process of the
14 agency, you may answer.

15 THE WITNESS: I can't -- I can't
16 answer that question.

17 BY MR. EPPICH:

18 Q. You've been criticized for your
19 actions by head of Office of Diversion Control.

20 MR. BENNETT: Objection.

21 BY MR. EPPICH:

22 Q. That's true, correct?

23 MS. SINGER: Objection. Vague.

24 MR. BENNETT: Objection. Vague.

25 THE WITNESS: Do you have any

1 specific criticism of me?

2 BY MR. EPPICH:

3 Q. I'm just asking you if you're aware
4 you've been criticized for your actions as the
5 head of Office of Diversion Control.

6 MR. BENNETT: Objection. Vague.
7 Also vague as to time.

8 THE WITNESS: I -- I think that, if
9 you were more specific, I -- I could give you a
10 better answer.

11 Do you have a specific instance
12 where somebody criticized me.

13 Q. Well, Chuck Rosenberg became the
14 acting administrator of DEA in 2015, right?

15 A. Yes, sir.

16 Q. You were still at DEA at the time
17 that he became the acting administrator?

18 A. Yes, sir.

19 Q. He was your boss, right?

20 A. Yes, sir.

21 Q. He told Congress shortly after you
22 left that you were not doing enough to give
23 guidance to the industry.

24 MS. SINGER: Objection. Foundation.

25 BY MR. EPPICH:

Q. Are you aware of that?

MR. BENNETT: Objection.
Foundation. Objection. Mischaracterizes
administrator Rosenberg's testimony.

MR. UTTER: Same objection.
Go ahead.

THE WITNESS: I am aware that he
made statements like that. I am also aware
that when he made those statements, he was
there for a very brief period of time and never
got a briefing on what the Office of Diversion
Control actually did.

BY MR. EPPICH:

Q. Mr. Rosenberg said to Congress, we
have been opaque. I think we have been slow.
I think we have been opaque. I think we
haven't responded to them. We are trying to
issue guidelines for them more quickly. We are
trying to answer their questions.

Did you know that Mr. Rosenberg said
this to Congress?

MS. SINGER: Objection. Foundation.

If counsel is going to ask the
witness about quotations and documents, I think
the witness should get to see those documents.

MR. BENNETT: I join that objection.

MR. UTTER: Same objection. Lack of
foundation.

Go ahead.

THE WITNESS: I would like to see
what he said exactly.

BY MR. EPPICH:

Q. Are you aware that he said that the
office was too slow, too opaque, are you aware
of that?

A. I'm aware --

MS. SINGER: Objection. Foundation.

MR. BENNETT: Same objections.

MR. UTTER: Same objection.

THE WITNESS: I am aware that he
made statements but I don't have the statements
in front of me and unless you can produce the
statements that I could look at.

BY MR. EPPICH:

Q. Are you aware that Mr. Rosenberg
said that I think we are part of the problem,
meaning I think DEA has been part of the
problem.

Are you aware of that?

MS. SINGER: Objection. Foundation.

MR. UTTER: Same objection.

MR. BENNETT: Same objection.

THE WITNESS: I have no idea of when
he -- why he said that or in what context he
said that.

Do you have the transcripts?

BY MR. EPPICH:

Q. But you are aware of that statement,
sir, aren't you?

A. No, I'm not --

MS. SINGER: Objection.
Mischaracterizes testimony and lack of
foundation.

MR. UTTER: Same objection.

Go ahead.

MR. EPPICH: May we take a break.

MS. SINGER: Sure.

MR. BENNETT: Sure.

MR. EPPICH: Let's go off the
record.

THE VIDEOGRAPHER: We are going off
the record. This is the end of Media Unit No.
1. The time is 9:25.

(A short recess was taken.)

THE VIDEOGRAPHER: We are going back

on the record. This is the start of Media Unit
No. 2. The time is 9:37.

You may proceed, Counsel.

BY MR. EPPICH:

Q. Mr. Rannazzisi, earlier today you
testified that the suspicious order monitoring
regulation is straightforward; is that correct?

A. Yes, sir.

Q. In your opinion, was the -- no
update is needed to that statute or regulation,
correct?

MR. BENNETT: Objection.

MS. SINGER: Objection. Foundation.
Scope.

MR. BENNETT: Objection.

I will instruct the witness that you
are not authorized to disclose any internal
deliberations that you had within the agency.

To the extent you can answer that
question without disclosing internal
deliberations that you had in the agency, you
may answer.

THE WITNESS: I can't answer that
question, it's based on.

BY MR. EPPICH:

1 Q. Well, it's your opinion that no
2 update to the CSA or the C.F.R. were needed for
3 registrants, correct?

4 MR. BENNETT: Same instruction.

5 MS. SINGER: Same objections.

6 THE WITNESS: I go back to my
7 testimony before. 1301.7 -- 1301.74 was very
8 clear on what a suspicious order is and that's
9 all I can say.

10 BY MR. EPPICH:

11 Q. You are aware that the Controlled
12 Substances Act was enacted in 1971?

13 A. Yes, about that time, yes, sir.

14 Q. In 1971, it's true that there were
15 only a handful of Schedule II controlled
16 substances that were registered?

17 MS. SINGER: Objection. Scope.

18 THE WITNESS: There was a lot -- a
19 lot -- a smaller amount of controlled
20 substances, yes, in 1971.

21 BY MR. EPPICH:

22 Q. It was a much smaller amount, right?

23 A. Yes.

24 MS. SINGER: Objection.

25 BY MR. EPPICH:

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1 Q. And registrants were using
2 handwritten suspicious order reports to fulfill
3 their obligations under the Controlled
4 Substances Act?

5 MS. SINGER: Objection. Scope.

6 MR. BENNETT: Objection.

7 Foundation.

8 MR. UTTER: Same objection.

9 THE WITNESS: I have no idea if they
10 were using handwritten --

11 BY MR. EPPICH:

12 Q. But there were no computers, were
13 there?

14 MR. BENNETT: Counsel, could you let
15 him finish his answer, please. I don't think
16 he was finished. I think you interrupted him.

17 THE WITNESS: Again, I have no idea
18 how they were filing suspicious orders either
19 handwritten or otherwise back in the early
20 '70s.

21 BY MR. EPPICH:

22 Q. But there were no computers
23 involved?

24 MS. SINGER: Objection.

25 MR. BENNETT: Objection.

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1 Foundation.

2 THE WITNESS: Again, I have no idea
3 how they were filing suspicious orders.

4 BY MR. EPPICH:

5 Q. This was a time before fax machines.

6 MR. BENNETT: Objection.

7 Foundation. Scope.

8 THE WITNESS: I just -- I can't tell
9 you what was done in the early '70s.

10 BY MR. EPPICH:

11 Q. Well, you can agree with me that the
12 distribution model that we see today has been
13 updated and improved since 1971?

14 MR. BENNETT: Objection.

15 MS. SINGER: Objection. Foundation.
16 Scope.

17 MR. BENNETT: Same objection.

18 Vague.

19 MR. UTTER: Same objection.

20 Go ahead.

21 THE WITNESS: I don't -- I don't --
22 could you clarify what you are saying. When
23 you say, "the distribution model," in what part
24 of the distribution model. What are you --

25 BY MR. EPPICH:

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1 Q. The way distributors report
2 suspicious orders to the DEA has changed in the
3 last 40 years-plus since 1971; isn't that
4 correct?

5 MR. BENNETT: Objection. Vague.
6 Objection. Lacks foundation. Objection.
7 Scope.

8 MR. UTTER: Same objection.

9 Go ahead.

10 THE WITNESS: I would say that the
11 regulation hasn't changed. It's the same
12 regulation but I am sure as technology
13 increases or technology gets better, yes, there
14 was a change in the way they reported, yes.

15 BY MR. EPPICH:

16 Q. And as technology has improved and
17 changed over time, it's still your opinion that
18 no update to the CSA is needed to account for
19 those changes?

20 MS. SINGER: Objection. Foundation.
21 Scope.

22 THE WITNESS: I have --

23 MR. BENNETT: Objection. Again, I
24 will instruct the witness that he is not
25 authorized to disclose any internal

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1 deliberations that occurred at the agency while
2 he was there.

3 To the extent that you can answer
4 this question without disclosing internal
5 deliberations, you may answer.

6 THE WITNESS: I have no control over
7 the CSA. The CSA is controlled by Congress and
8 the Administration when the President signs a
9 piece of legislation, so I have no control over
10 what the President or Congress does in relation
11 to legislation.

12 BY MR. EPPICH:

13 Q. In your personal opinion, do you
14 think that the Controlled Substances Act and
15 its corresponding regulations should be updated
16 to account for the changes in technology and
17 the passage of time since 1971?

18 MS. SINGER: Same objection and
19 asked and answered.

20 MR. BENNETT: I will object. Scope.

21 You are not authorized to give
22 personal opinions regarding nonpublic facts or
23 information you acquired in the performance of
24 your official duties.

25 To the extent that you can form an

1 opinion that is based on public facts or
2 information you acquired outside of the
3 performance of your official duties, you may
4 answer.

5 THE WITNESS: Again, I have to go
6 back to -- I have no control over what is
7 legislated by Congress or what is signed by the
8 President, so I can't answer that question.

9 BY MR. EPPICH:

10 Q. Sitting here today, you have no
11 personal opinion on the subject?

12 MS. SINGER: Same objections.

13 MR. BENNETT: Objection. Same
14 instruction.

15 THE WITNESS: I have no opinion on
16 that.

17 BY MR. EPPICH:

18 Q. Before the break, we were discussing
19 some criticism within the DEA.

20 Do you remember that testimony?

21 MS. SINGER: Objection.

22 Mischaracterizes prior testimony.

23 MR. BENNETT: Objection.

24 MR. SMITH: Same objection.

25 BY MR. EPPICH:

1 Q. Do you remember that discussion?

2 A. I remember the discussion that we
3 had prior to taking the break, yes.

4 Q. Mr. Rannazzisi, are you partially
5 responsible for the opioid crisis?

6 MS. SINGER: Objection. Scope.

7 MR. BENNETT: Objection.

8 Argumentative. Objection. Vague. And
9 objection. Scope.

10 If you understand the limitations in
11 your scope authorization.

12 MR. UTTER: Go ahead.

13 THE WITNESS: I don't believe that I
14 am responsible for the opioid crisis, no.

15 BY MR. EPPICH:

16 Q. Are you a paid consultant for the
17 plaintiffs' lawyers?

18 MR. BENNETT: Objection. Vague.

19 MS. SINGER: Objection.

20 THE WITNESS: I'm a paid consultant.

21 BY MR. EPPICH:

22 Q. You are a paid consultant for
23 plaintiffs' lawyers, correct?

24 MS. SINGER: Objection. Vague.

25 MR. UTTER: Are you asking in this

1 litigation?

2 MR. EPPICH: I am asking if he is a
3 consultant for plaintiffs' lawyers that are
4 involved in the opioid litigation.

5 MR. UTTER: I will instruct you not
6 to answer to the extent it relates to any
7 litigation other than the present litigation.

8 THE WITNESS: No, I am not a
9 consultant for this present litigation.

10 MS. MAINIGI: Special Master Cohen,
11 I do believe that that type of question was
12 allowed in Kyle Wright's deposition. I don't
13 want to interrupt the flow, but I would just
14 ask you make a ruling as to whether we are
15 allowed to ask whether this witness acts as a
16 consultant to any plaintiff in any opioid
17 litigation.

18 MR. UTTER: That question was not
19 posed in Karl Wright's deposition. It had to
20 do with him being a consultants to Motley Rice
21 which was the current litigation.

22 MS. MAINIGI: I do not believe that
23 is correct. I believe he was identified as a
24 consultant for Rick Fields. It was not in this
25 litigation.

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1 SPECIAL MASTER COHEN: I don't know
2 whether -- why don't you ask your question that
3 tees it up. I'm not sure that you teed it up
4 exactly.

5 BY MR. EPPICH:

6 Q. Mr. Rannazzisi, are you a consultant
7 in -- to the plaintiffs' attorneys that are
8 involved in the opioid litigation?

9 MS. SINGER: Objection. Vague.

10 MR. UTTER: Object. Work product
11 privilege as it relates to litigation not --
12 that is not the present litigation.

13 MS. MAINIGI: Kyle Wright has
14 identified -- identified himself as a
15 consultant to Rick Fields who is a plaintiff's
16 attorney representing -- a plaintiff's attorney
17 in opioid litigation, but not the MDL.

18 SPECIAL MASTER COHEN: Well, with
19 Kyle Wright then I'm not sure it's dispositive.
20 It seems to me that the witness is being asked
21 if he is a consulting expert, and normally that
22 is something that is not divulged.

23 MR. EPPICH: May I introduce an
24 exhibit?

25 SPECIAL MASTER COHEN: Sure.

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1 MR. EPPICH: This will be marked as
2 Exhibit 4.

3 (Deposition Exhibit 4 was marked for
4 identification.)

5 BY MR. EPPICH:

6 Q. Exhibit 4 is a copy of the October
7 15, 2017 article in the Washington Post titled:
8 "Who is Joe Rannazzisi, the DEA man who fought
9 the drug companies and lost."

10 Mr. Rannazzisi, have you seen this
11 document before?

12 A. I have seen this article before,
13 yes.

14 Q. Let's turn to the last page of the
15 article.

16 MR. UTTER: Excuse me. Could the
17 witness please review the article so he has the
18 context of any questions.

19 MR. EPPICH: Yes.

20 BY MR. EPPICH:

21 Q. Mr. Rannazzisi, please take your
22 time with the document.

23 A. Thank you.

24 Okay.

25 Q. Mr. Rannazzisi, on Page 3 of this

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1 document, it is the fifth full paragraph down,
2 it says: "Today, Rannazzisi is a consultant
3 for a team of lawyers suing the opioid
4 industry. Separately, 41 state attorney
5 generals have banded together to investigate
6 the industry. Hundreds of counties, cities and
7 towns are also suing."

8 Mr. Rannazzisi, you told the
9 Washington Post that you were a consultant to
10 the opioid industry -- to the team of lawyers
11 suing the opioid industry; is that correct?

12 MS. SINGER: Objection. Lack of
13 foundation. Mischaracterizes what the article
14 says.

15 MR. UTTER: Same objection.

16 You can answer that question.

17 THE WITNESS: I don't recall exactly
18 what I told the Post but I believe I did say
19 that I was a consultant but I don't know to
20 what detail I talked about that.

21 BY MR. EPPICH:

22 Q. So let me ask you my question again:
23 Are you a paid consultant for the plaintiffs'
24 lawyers in the opioid litigation?

25 MS. SINGER: Same objection.

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1 MR. UTTER: Same instruction not to
2 answer.

3 SPECIAL MASTER COHEN: I think you
4 need to answer that question yes or no.

5 MR. UTTER: Go ahead.

6 THE WITNESS: Yes.

7 BY MR. EPPICH:

8 Q. Which cases are you a paid
9 consultant for plaintiffs' lawyers in the
10 opioid litigation?

11 MR. UTTER: I instruct you not to
12 answer. Work product privilege, other cases
13 besides this one.

14 SPECIAL MASTER COHEN: That one I
15 don't think you need to.

16 BY MR. EPPICH:

17 Q. When did you start becoming a
18 consultant to plaintiffs' lawyers?

19 MS. SINGER: Objection. Scope.

20 MR. UTTER: Go ahead. You can
21 answer that.

22 THE WITNESS: Yeah. I am just
23 trying -- it was sometime I believe in --
24 sometime during 2016.

25 BY MR. EPPICH:

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1 Q. Are you a paid consultant for any
2 attorney generals that are involved in the
3 opioid litigations?

4 MS. SINGER: Same objection.

5 To the extent that Mr. Rannazzisi
6 is, I don't know, is working with any attorneys
7 general I believe that is certainly beyond the
8 scope and would reveal confidential law
9 enforcement information that should not be
10 discussed.

11 MS. MAINIGI: Attorneys general that
12 are suing the opioid industry as reflected in
13 the Washington Post article.

14 MS. SINGER: First of all, that's
15 not the question. Second of all, to the extent
16 he is a nondisclosed consulting expert, I don't
17 think he should answer that question.

18 MR. UTTER: To the extent the
19 question calls for you to disclose you're a
20 consulting expert on a litigation, I will
21 instruct you not to answer. Otherwise, you can
22 answer the question.

23 MR. LIVINGSTON: He was hired with
24 knowledge that this person was going to be a
25 key witness, a key fact witness, so I don't

1 think that the usual, you know, consultant
2 privilege applies.

3 MR. UTTER: I appreciate your
4 thought, but I don't -- the rule doesn't say
5 that.

6 SPECIAL MASTER COHEN: Why don't you
7 ask --

8 MR. LIVINGSTON: We can just go and
9 hire as many --

10 SPECIAL MASTER COHEN: There is no
11 argument between counsel.

12 If you can answer the question in
13 the way as your attorney instructed you.

14 THE WITNESS: Could you repeat the
15 question.

16 BY MR. EPPICH:

17 Q. Yes, sir. Are you a paid consultant
18 for any attorney generals that are involved in
19 the opioid litigation?

20 MR. UTTER: You can answer the
21 question to the extent it doesn't reveal your
22 consultation in litigation outside the present
23 litigation.

24 THE WITNESS: My agreement is with
25 Richard Fields.

1 BY MR. EPPICH:

2 Q. Did Mr. Fields approach you or did
3 you approach Mr. Fields?

4 MR. UTTER: I instruct you not to
5 answer, work product.

6 SPECIAL MASTER COHEN: I am not
7 overruling that.

8 MS. MAINIGI: Why is that
9 privileged?

10 SPECIAL MASTER COHEN: For the same
11 reason that I would not uphold -- for the same
12 reason I wouldn't direct a witness that is
13 yours to divulge the nature of the relationship
14 that the expert or consultant has with you. I
15 play it the same way.

16 What you are after is information
17 that would go to his credibility and bias. You
18 have already got it.

19 MS. MAINIGI: We've already got it,
20 but how -- who approached who is not privileged
21 information.

22 SPECIAL MASTER COHEN: I'm not going
23 to -- I'm not going to argue over my rulings.

24 BY MR. EPPICH:

25 Q. Mr. Rannazzisi, did you understand

1 that you would get paid for your work with the
2 Fields firm?

3 MR. UTTER: You can answer that.

4 THE WITNESS: Yes.

5 BY MR. EPPICH:

6 Q. Did you sign a contract with them?

7 A. Yes.

8 Q. How much are you paid per hour?

9 MR. UTTER: You can answer.

10 THE WITNESS: \$500 an hour.

11 BY MR. EPPICH:

12 Q. And how many hours have you billed
13 to date?

14 MR. UTTER: That I would instruct
15 you not to answer.

16 THE WITNESS: I don't --

17 MR. UTTER: That I would instruct
18 you not to answer.

19 SPECIAL MASTER COHEN: No, you can
20 answer that question.

21 MR. UTTER: Go ahead.

22 THE WITNESS: I don't know.

23 BY MR. EPPICH:

24 Q. Do you know how much money you
25 received from the Fields firm to date?

MR. UTTER: Go ahead.

THE WITNESS: I don't know.

BY MR. EPPICH:

Q. Is it more than \$10,000?

A. Yes.

Q. More than \$50,000?

A. Yes.

Q. More than \$100,000?

A. I would say yes.

Q. More than a quarter million dollars?

A. No.

Q. Are you billing the Fields firm for your testimony here today?

A. No.

Q. Are you billing the Fields firm for your preparation sessions for this deposition today?

A. No.

Q. Are you being compensated by any lawyer or entity for your testimony here today or the preparations for your testimony here today?

A. Well, I was under the impression I got a witness fee from the defendants.

Q. Other than that?

A. No.

Q. Now have you talked with the plaintiffs' firms about the work you did while you were at the DEA?

MS. SINGER: Objection. Vague.

MR. UTTER: Objection.

I instruct you not to answer that.

I'm going to instruct you not to answer that.

THE WITNESS: I didn't hear the question. Can you repeat the question, please.

BY MR. EPPICH:

Q. Have you talked with the plaintiffs' firms that you are hired by about the work you did while you were at the DEA?

MR. UTTER: Objection.

I instruct you not to answer.

BY MR. EPPICH:

SPECIAL MASTER COHEN: I am not overruling that.

BY MR. EPPICH:

Q. Did you get any kind of approval from the United States Government before you agreed to take a consulting role with the plaintiffs' lawyers?

MR. UTTER: You can answer that.

THE WITNESS: Yes.

BY MR. EPPICH:

Q. And is that approval in writing?

A. Yes.

Q. Do you still have a copy of that approval?

A. I don't -- I don't know if I still have a copy of it. But the person who did the approval was Roberto Dibella.

Q. Do you recall when that approval was issued?

A. It was right about the time -- right after Mr. Fields approached me.

Q. And that was in 2016?

A. I believe it was in '16, yes.

Q. You have a personal attorney here today?

A. Yes, sir.

Q. Who is paying his fees?

A. I -- we just have an agreement that Mr. Utter would represent me. There's no fee. There's no fee.

Q. You are not paying Mr. Utter's fee today as he sits here today?

A. No, sir.

Q. Are you aware that Mr. Utter represents plaintiffs in the opioid lawsuit?

A. I believe Mr. Utter does represent plaintiffs, yes.

Q. And you have had conversations with Mr. Utter about the opioid lawsuit?

MR. UTTER: I'm going to object and instruct you not to answer.

SPECIAL MASTER COHEN: It's a yes or no question. You can answer yes or no without going into the substance of those conversations.

THE WITNESS: Could you repeat.

MR. UTTER: Go ahead.

THE WITNESS: Could you repeat the question one more time.

BY MR. EPPICH:

Q. Have you had conversations with Mr. Utter about the opioid lawsuit?

A. Yes.

Q. Was Mr. Utter referred to you?

MR. UTTER: I will instruct you not to answer that as part of the consultation work with Mr. Fields.

SPECIAL MASTER COHEN: I actually

1 don't understand the question. I'm sorry.

2 BY MR. EPPICH:

3 Q. How did you become acquainted with
4 Mr. Utter? Was he referred to you by the
5 Fields law firm?

6 MR. UTTER: That you can answer.

7 THE WITNESS: I was working with Mr.
8 Utter. I got to know him during several
9 meetings we have had and I asked him.

10 BY MR. EPPICH:

11 Q. Have you been asked to testify in
12 any of the opioid litigations?

13 MR. UTTER: You can answer.

14 THE WITNESS: Asked to testify?

15 BY MR. EPPICH:

16 Q. Yes, sir.

17 A. I'm sure people have asked me over
18 the last year or so, two years.

19 Q. Well --

20 MR. BENNETT: And I will interject
21 an objection as to vague, whether you mean
22 testify as an expert because he is testifying
23 now.

24 MR. EPPICH: Fair enough, James.

25 Thank you.

1 BY MR. EPPICH:

2 Q. Have you been asked to testify as an
3 expert in any opioid litigation?

4 MR. UTTER: I object and instruct
5 you not to answer unless you are aware whether
6 you have been designated as a testifying expert
7 in that case.

8 THE WITNESS: I have not been
9 designated as a testifying expert, but I am
10 sure I have been asked over the last year or so
11 from many different law firms.

12 BY MR. EPPICH:

13 Q. In fact, you already appeared before
14 the court in this multidistrict litigation,
15 correct?

16 A. That's true.

17 Q. Were you paid for that testimony?

18 A. Yes, I was paid.

19 Q. That was part of your consultancy
20 with the Fields firm?

21 A. It wasn't part of the agreement with
22 Mr. Fields.

23 Q. Who was -- which agreement was that
24 testimony for?

25 A. It wasn't really an agreement. I

1 was just asked to appear. It was with Motley
2 Rice.

3 Q. Did Motley Rice pay you for your
4 time?

5 A. Yes.

6 Q. Do you have an agreement with Motley
7 Rice?

8 A. I don't believe I have an agreement
9 with Motley Rice, no.

10 Q. Are you aware that the Motley Rice
11 firm represents plaintiffs in this lawsuit?

12 A. Yes.

13 Q. Do you have a current engagement
14 with the Motley Rice firm for purposes of this
15 opioid lawsuit?

16 A. No. That was a one-time appearance
17 to explain ARCOS and quotas. That was it.

18 Q. Now, in addition to getting paid
19 consultant fees by the plaintiffs' lawyers, you
20 advertise on the Internet as a paid speaker on
21 the opioid crisis; is that true?

22 MS. SINGER: Objection.

23 Mischaracterizes the witness's testimony.

24 MR. UTTER: Go ahead.

25 THE WITNESS: I don't advertise at

1 all.

2 BY MR. EPPICH:

3 Q. But it's true that you are a paid
4 speaker on the opioid crisis?

5 A. I do paid speaking engagements but
6 there is no advertising. I also do free
7 speaking engagements.

8 Q. How much do you get paid for your
9 speaking engagements on the opioid crisis?

10 A. It depends on the audience. If it's
11 a parent's group that lost children or loved
12 ones, it's free. They pay me to come out and
13 talk and -- they pay me my expenses so they
14 will pay my flight. Generally, I don't even
15 take hotel. They pay my flight out, I speak
16 and then I leave.

17 If it's a group of doctors, it might
18 be anywhere from 2 to \$5,000. If it's a group
19 of -- another type of group, you know, it just
20 depends on the group and it depends on what
21 they could pay, I mean, that's -- but for the
22 most part, it's really not set in stone.

23 Q. What is the most you have been paid
24 for a speaking engagement on the opioid crisis?

25 A. The most? \$5,000.

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Q. Have you signed any book deals on the opioid crisis?

A. No.

Q. Are you paid for any TV appearances relating to the opioid crisis?

A. I don't do television.

Q. Are you being paid for any radio appearances, podcasts?

A. No. I never take any money for podcasts.

Q. I want to talk to you briefly about your conduct with respect to documents during your time at the DEA.

A. Yes.

Q. You sent e-mails from your government e-mail address to your personal e-mail address; is that true?

A. Uh-huh. Yes.

Q. You sent work-related e-mails to your personal e-mail address on multiple occasions?

MS. SINGER: Objection. Scope.

BY MR. EPPICH:

Q. Isn't that true?

A. Yes.

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Q. And this was over the course of several years, wasn't it?

A. Yes.

Q. These e-mails would often have government documents attached to them.

A. That's true, yes.

Q. In fact, other DEA employees knew to send you e-mail at both your work and personal e-mail addresses, didn't they?

A. Well, I don't know if other employees knew that. It just depends on where we were. We were having issues with our phones. And sometimes it would just be easier to send certain things to my personal account.

Q. Do you still maintain copies of these documents and e-mails in your personal accounts?

A. Everything that I had in the personal account that I found I turned over to the Department of Justice.

Q. But you still have copies of those documents, don't you?

A. Well, I was --

MS. SINGER: Objection.

Argumentative.

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THE WITNESS: I was told I couldn't get rid of them until the end. So yes.

BY MR. EPPICH:

Q. And did you share any of these documents with "60 Minutes" or the Washington Post?

A. No, sir.

Q. You didn't give "60 Minutes" the Washington Post documents at all?

A. No.

Q. Did you share any of these documents with the plaintiffs' lawyers --

A. No.

Q. -- that you're doing consulting work for?

A. Absolutely not.

MR. EPPICH: Thank you, Mr. Rannazzisi.

When pass you to one of my colleagues.

Let's go off the record for a minute.

THE VIDEOGRAPHER: We are going off the record.

The time is 10:04.

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(A short recess was taken.)

THE VIDEOGRAPHER: We are going back on the record.

The time is 10:08.

You may proceed, Counsel.

EXAMINATION BY COUNSEL FOR MALLINCKRODT

PHARMACEUTICALS AND SPECGX LLC

BY MR. O'CONNOR:

Q. Good morning, Mr. Rannazzisi.

A. Good morning.

Q. My name is Andrew O'Connor. I represent one of the manufacturers in the case. I'll be asking you some questions.

A. Sure.

Q. I want to return to the topic of quotas for a few minutes.

DEA considered a number of different factors when determining quotas for controlled substances, correct?

A. Yes.

Q. And those factors are set by statute and regulation, true?

A. Yes.

Q. They include the total net disposal of controlled substances in prior years?

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1 A. Yes.

2 Q. They include trends in is the
3 national rate of net disposal?

4 A. Yes.

5 Q. Total actual or estimated
6 inventories?

7 A. Yes.

8 Q. Changes in accepted medical use?

9 A. Yes.

10 Q. Economic and physical availability
11 of raw materials?

12 A. Yes.

13 Q. Any emergencies that might have
14 occurred?

15 A. Yes.

16 Q. And any other factors that the DEA
17 determines to be relevant, correct?

18 A. Yes.

19 Q. And in setting quotas for controlled
20 substances, the DEA considers input from a
21 variety of sources, true?

22 MS. SINGER: Objection. Vague.

23 MR. BENNETT: I join that objection.

24 THE WITNESS: Could you repeat the
25 question. I'm sorry.

1 BY MR. O'CONNOR:

2 Q. Sure.

3 In setting quotas for controlled
4 substances, the DEA considers information from
5 multiple sources, correct?

6 A. Yes.

7 MS. SINGER: Objection. Vague.

8 BY MR. O'CONNOR:

9 Q. Those sources include the Food &
10 Drug Administration?

11 A. Yes.

12 Q. And in every year while you were the
13 head of the Office of Diversion Control, DEA
14 considered input from the FDA, correct?

15 A. We considered -- yes, we did.

16 Q. In addition to setting quotas
17 regarding the total amount of controlled
18 substances that are allowed to be produced, DEA
19 also sets quotas for individual registrants,
20 correct?

21 MS. SINGER: Objection. Compound.

22 THE WITNESS: Could you rephrase
23 that question.

24 BY MR. O'CONNOR:

25 Q. Sure.

1 DEA sets quotas for individual
2 manufacturers, correct?

3 A. Talking about bulk API
4 manufacturers?

5 Q. Let's start with that.

6 A. Yes.

7 Q. Okay. And DEA also sets individual
8 procurement quota for dosage manufacturers?

9 A. Yes. Correct.

10 Q. Okay. And in assigning those
11 quotas, DEA must stay within the aggregate
12 production quota that it has set, correct?

13 A. The aggregate production quota is
14 the ceiling. We can't go above that by
15 statute.

16 Q. Understand.

17 And that ceiling reflects the
18 legitimate scientific, medical and industrial
19 needs of the United States, correct?

20 A. In addition to import, export --
21 export requirements and -- there are a couple
22 other factors, yeah.

23 Q. When assigning a particular dosage
24 manufacturer a procurement quota, if the DEA
25 knew that that registrant was diverting

1 controlled substances, would it grant the
2 registrant a quota?

3 MR. BENNETT: Objection.

4 MS. SINGER: Objection.
5 Hypothetical.

6 MR. BENNETT: Objection. Incomplete
7 hypothetical. And calls for speculation.
8 Scope.

9 MR. UTTER: Same objections.

10 Go ahead.

11 THE WITNESS: I -- I can't answer
12 that question. Because it's -- every -- we --
13 everything is very fact-specific when it comes
14 to manufacturers in quota.

15 BY MR. O'CONNOR:

16 Q. But if -- if you knew for a fact
17 that a manufacturer is diverting controlled
18 substances, you would not give that
19 manufacturer a quota --

20 MS. SINGER: Objection.

21 BY MR. O'CONNOR:

22 Q. -- correct?

23 MS. SINGER: Hypothetical.

24 MR. BENNETT: Objection. Incomplete
25 hypothetical. Calls for speculation. And

1 scope.

2 MR. UTTER: Same objection.

3 Go ahead.

4 THE WITNESS: I -- I can't answer
5 that. Because there's -- there's processes in
6 place to review and make a determination that
7 has other -- there's other components involved,
8 not just the Office of Diversion Control.

9 BY MR. O'CONNOR:

10 Q. Was there ever a time at DEA that
11 the DEA granted a procurement quota to a
12 manufacturer it knew was diverting products?

13 MR. BENNETT: Objection. Scope.

14 You're not authorized to disclose
15 information regarding any specific nonpublic
16 DEA investigations or activities.

17 To the extent that there's public
18 information that allows you to answer this
19 question, you may. But you may not disclose
20 any specific DEA investigations or activities
21 that are nonpublic.

22 THE WITNESS: I can't answer that
23 question.

24 BY MR. O'CONNOR:

25 Q. Mr. Rannazzisi, would you agree with

1 me that it's important that the DEA grant
2 enough quota so that legitimate patients have
3 access to necessary medication?

4 MS. SINGER: Objection. Vague.

5 MR. BENNETT: Objection. Scope.

6 MR. UTTER: Go ahead.

7 THE WITNESS: Quota, under 826, is
8 based on legitimate medical, scientific,
9 industrial export needs of the country.

10 BY MR. O'CONNOR:

11 Q. Would you agree that granting
12 adequate quota is necessary to ensure an
13 adequate and uninterrupted supply of
14 pharmaceutical-controlled substances?

15 A. I can only agree with what the
16 statute requires. And the statute requires
17 that we allot quota to meet the needs of the
18 medical, industrial and scientific requirements
19 of the country.

20 Q. And if you don't grant enough quota,
21 there can be drug shortages, correct?

22 MS. SINGER: Objection. Vague.

23 Objection. Scope.

24 THE WITNESS: I actually -- no.
25 That's not correct.

1 BY MR. O'CONNOR:

2 Q. It's not correct that, if there is
3 not enough quota granted, that there could be
4 drug shortages?

5 MR. BENNETT: Objection. Form.

6 THE WITNESS: It -- it's not correct
7 because the Drug Enforcement Administration has
8 no authority to dictate what exactly a
9 manufacturer does once they're issued with
10 quota.

11 So there may be a situation where a
12 manufacturer decides to divert the amount of
13 quota authority he has to another product,
14 therefore creating a shortage.

15 It's not necessarily the amount of
16 quota. It's what they're doing with the quota
17 that could create the shortage.

18 BY MR. O'CONNOR:

19 Q. But would you agree that, if the DEA
20 set the quota far too low, that could result in
21 a drug shortage?

22 MS. SINGER: Objection.
23 Hypothetical. Calls for speculation.

24 MR. BENNETT: Objection. Incomplete
25 hypothetical. Calls for speculation. Scope.

1 MR. UTTER: Go ahead.

2 THE WITNESS: Again, it -- like
3 everything else, with quota, it -- I have to --
4 I'd have to have a complete set of facts in
5 order to answer that question.

6 MR. O'CONNOR: Okay. Mr.
7 Rannazzisi, I'm going to show you a document.
8 Counsel.

9 MR. UTTER: Is this marked as an
10 exhibit or --

11 MR. O'CONNOR: Yes.
12 We'll mark that. I think we're on
13 number --

14 THE REPORTER: Exhibit 5.

15 MR. O'CONNOR: -- 6.
16 5 or 6.

17 THE REPORTER: 5.
18 (Deposition Exhibit 5 was marked for
19 identification.)

20 MS. SINGER: What is the exhibit
21 number?

22 THE REPORTER: Exhibit 5.

23 MS. SINGER: Thank you.

24 MR. O'CONNOR: Just for the record,
25 this is Bates No. US-DEA-00011611.

BY MR. O'CONNOR:

Q. Mr. Rannazzisi, do you recognize this document?

A. Yes, I do.

Q. You wrote it, correct?

A. Yes.

Q. Okay.

A. I was -- I was part of -- I was part of the writing team.

Q. Okay. And if you flip to the back page, that's your signature or someone signing on your behalf, correct?

A. That was one of my execs signing on my behalf. Because I was out of town when it was finalized.

Q. But you approved of the letter?

A. Yes. I -- I had to read it to approve it.

Q. And I'm going to direct your attention to Page 10 of the document.

Would you just read for me the first sentence of the conclusion.

A. "There can be no doubt that drug shortages adversely affect the public health."

Q. Based on your knowledge and

experience at DEA, do you agree with that statement, as you sit here today?

MS. SINGER: Objection. Scope.

THE WITNESS: Drug shortages can affect the public health. Absolutely.

BY MR. O'CONNOR:

Q. Okay. And are you aware that the DEA has been criticized for not simply lowering the quota to help address the problem of opioid abuse?

MS. SINGER: Objection.

MR. BENNETT: Vague.

MS. SINGER: Objection. Foundation.

MR. BENNETT: Vague as to time.

MR. UTTER: Same objection.

Go ahead. You can answer.

THE WITNESS: I'm just -- where did -- I -- I -- I am aware that that has actually -- that people have talked about that, both in Congress and -- and in the private industry, yes.

BY MR. O'CONNOR:

Q. But the truth is DEA can't simply turn off the supply of opioids through quota because that would hurt legitimate patients,

correct?

MS. SINGER: Objection. Compound. Objection. Foundation.

MR. BENNETT: Objection. Form. Calls for legal conclusion. Scope.

THE WITNESS: DEA is required, under 826, to set the quota to meet the legitimate medical, scientific, industrial needs and export needs of the country. And that's what we're required to do.

BY MR. O'CONNOR:

Q. And if you don't set that number high enough, that might prevent legitimate patients from receiving medication, correct?

MS. SINGER: Objection. Asked and answered. Vague.

MR. BENNETT: Objection. Incomplete hypothetical.

THE WITNESS: Again, I can only go back to 826 and tell you exactly what the statute says.

BY MR. O'CONNOR:

Q. Okay. Mr. Rannazzisi, have you ever appeared on a podcast?

A. Yes. I've appeared on several

podcasts.

Q. Have you appeared on one called Cover2 Resources?

A. Yes.

MR. O'CONNOR: I'm going to mark Exhibit No. 6.

(Deposition Exhibit 6 was marked for identification.)

BY MR. O'CONNOR:

Q. This is a certified transcript of an episode of the Cover2 Resources podcast in which you appeared.

I'll direct your attention to Page 25 of this transcript.

At the top of the page you say:

"It's very easy to say, 'Well, all DEA has to do is cut the quota.' The problem is you can't cut a quota. In a quota system there's a hundred -- well, let's just come up with a number -- 100 kilograms of a certain -- of oxycodone, the basic class, which is what we set the quota in a basic class. A hundred kilograms of oxycodone in the basic class form is the quota, and that's based on downstream sales, for the most part."

Now, do you see where I am here?

A. Yeah. I am following you along.

Q. Okay. Now, I'd -- I'd like for you to take a look at what you say in the next sentence that begins "So."

Could you read that for me?

MR. UTTER: Before you do that, make sure you understand the context in which this is all based at.

THE WITNESS: Yeah. What I was --

MR. UTTER: And I object to the fact that there's no foundation to -- to the question. And he's reading the document into the record without that foundation.

THE WITNESS: Could I read a couple of pages before?

MR. O'CONNOR: Sure.

THE WITNESS: Thanks.

Okay.

BY MR. O'CONNOR:

Q. Okay. And could you read, please, the sentence that begins "So if I know."

MR. UTTER: Object. Foundation.

THE WITNESS: What page is that?

BY MR. O'CONNOR:

Q. Page 25?

A. 25. Oh.

"So if I know that a hundred kilograms is the quota, and that's what's going to cover all the downstream sales and all the research and everything else, and I cut the quota, just cut it by 80 -- by 20 percent, say, well, that sound like a great idea. But remember, you have drug seekers competing" for real life patients -- "with real life patients for that quota."

Q. Do you agree with that statement, as you sit here today?

MS. SINGER: Objection. The document is out of context.

MR. UTTER: Go ahead.

THE WITNESS: I'm sorry.

BY MR. O'CONNOR:

Q. Do you agree with that statement?

A. Yes.

Q. Because if you were to just cut the quota by 80 or even 20 percent, there would be consequences for real life patients, correct?

A. Yes.

Q. Thank you.

Earlier today you mentioned the distributor initiative.

Are you familiar with what that is?

A. Yes.

Q. Fair to say that the distributor initiative involved meetings with distributors on the subject of regulatory compliance?

MR. BENNETT: Objection. Foundation.

THE WITNESS: The distributor initiative was created to -- to reemphasize what requirements under 21 C.F.R. and 21 -- the -- the USC were to the distributors to ensure that they were acting appropriately and within -- complying with the act and the regulations.

BY MR. O'CONNOR:

Q. During your time as the office -- as the head of the Office of Diversion Control, was there ever a manufacturer initiative?

MR. BENNETT: Objection. Vague.

THE WITNESS: We -- we -- a manufacturer -- a coincident activity to manufacturing is distributors. And manufacturers know that they are -- they're

held to the same standards as distributors.

BY MR. O'CONNOR:

Q. So in answer to my question, there was not a manufacturers --

MR. BENNETT: Objection.

BY MR. O'CONNOR:

Q. -- initiative, correct?

MR. BENNETT: Objection.

Misstates --

MS. SINGER: Argumentative.

Mischaracterizes the witness's testimony.

THE WITNESS: Again, a distributor initiative would encompass manufacturers. Because a coincident activity to manufacturing is distributing.

BY MR. O'CONNOR:

Q. And during the course of the distributor initiative, did you personally meet with any manufacturers?

A. During the distributor initiative, I only met with one company.

Q. Was that company a manufacturer?

A. It was a distributor.

Q. To your knowledge, did anyone on your team meet personally with a manufacturer

1 during the distributor initiative meetings?

2 A. I don't remember exactly. It seems
3 to me that Southwood was actually a
4 manufacturer. And I'm pretty sure they were
5 part of the initiative.

6 Q. As you sit here today, other than
7 Southwood, you don't recall any meetings with
8 manufacturers as part of the distributor
9 initiative, correct?

10 MS. SINGER: Objection.
11 Mischaracterizes the witness's testimony.

12 THE WITNESS: I don't recall -- you
13 know, again, we met with a lot of people. I
14 don't recall a specific instance or a specific
15 manufacturer. But that doesn't mean that they
16 weren't. I just don't recall one.

17 BY MR. O'CONNOR:

18 Q. Would you agree with me that, when
19 it comes to suspicious order monitoring,
20 providing registrants with clear guidance is
21 important?

22 MS. SINGER: Objection. Vague.

23 MR. BENNETT: Objection. Vague.
24 Objection. Scope.

25 THE WITNESS: The registrants had

1 clear guidance. 1301.74(b) specifically says a
2 suspicious order is orders of unusual size,
3 frequency, or substantially deviating from the
4 normal ordering pattern. I think that's pretty
5 straightforward.

6 BY MR. O'CONNOR:

7 Q. Are you familiar with the phrase
8 "Know your customer's customer"?

9 A. I've heard that phrase. But that
10 phrase was used after I -- I left.

11 Q. Okay. So during your time as the
12 head of the Office of Diversion Control, "Know
13 your customer's customer" was not a term that
14 you were familiar with?

15 A. No. Due diligence was the term we
16 utilized. Due diligence on your customers.
17 Making sure you know your customers and know
18 what they're doing.

19 Q. Okay. Would you agree that the DEA
20 did not expect manufacturers to police the
21 entire supply chain?

22 MR. BENNETT: Objection. Vague.
23 Incomplete hypothetical. Scope.

24 MR. UTTER: Go ahead.

25 THE WITNESS: No. I -- well, I do

1 agree that they should have -- they're --
2 they're required to know their customers.
3 They're required -- they're held to the same
4 standard as a distributor.

5 So yes, they're supposed to know
6 their customers; they're supposed to be able to
7 make a determination that the drugs that
8 they're shipping downstream are not being
9 diverted. The same obligation as the
10 distributor.

11 BY MR. O'CONNOR:

12 Q. But manufacturers aren't required to
13 police the entire supply chain, correct?

14 MS. SINGER: Objection. Asked and
15 answered.

16 MR. BENNETT: Objection. Vague.
17 Incomplete hypothetical. And scope.

18 THE WITNESS: Again, they're --
19 they're required to do exactly what
20 distributors do.

21 BY MR. O'CONNOR:

22 Q. Okay. Take a look at that same
23 exhibit you have in front of you --

24 A. Yeah.

25 Q. -- No. 6.

1 A. Uh-huh.

2 Q. And I'd like you to turn to pages 18
3 and 19.

4 Bottom of Page 18 you say: "People
5 always say, 'Well, you can't expect us to
6 police the -- the supply chain.' And I say, 'I
7 don't expect you to police the supply chain.
8 But I do expect you to police your own
9 customers.'"

10 Do you see that?

11 A. Yes.

12 Q. So you expect manufacturers to
13 police their own customers --

14 A. Absolutely.

15 Q. -- correct?

16 But you do not expect them to police
17 the entire supply chain.

18 MR. BENNETT: Object.

19 MS. SINGER: Objection.
20 Mischaracterizes the document. Takes
21 statements out of context. And as you know,
22 the rule requires that you provide whole of the
23 context in the relevant document, like here,
24 Page 18, in the first full paragraph.

25 MS. MAINIGI: Special Master Cohen,

1 could we ask that there not be speaking and
2 coaching objections of the type that were made.

3 MS. SINGER: Rule 106.

4 SPECIAL MASTER COHEN: You know, an
5 objection needs to be succinct. And that was
6 more than necessary, please.

7 BY MR. O'CONNOR:

8 Q. Do you need the question again?

9 A. Yes.

10 Q. Okay. But you do not expect
11 manufacturers to police the entire supply
12 chain, correct?

13 MS. SINGER: Objection. Asked and
14 answered. Mischaracterizes the document.

15 MR. BENNETT: Objection. Vague.
16 Objection. Incomplete hypothetical.
17 Objection. Scope.

18 THE WITNESS: Could you clarify what
19 the entire supply chain is.

20 BY MR. O'CONNOR:

21 Q. The entire supply chain would refer
22 to, in addition to the manufacturers, the
23 distributors, the pharmacies, the doctors and
24 the patient.

25 A. They absolutely should be looking at

1 the -- the distributors and the pharmacies. I
2 think that that's important.

3 Obviously they can't look at the
4 patients unless they actually, you know --
5 they -- they -- they could look at the
6 pharmacies, and they look -- they look at the
7 distributors. And I think that's a
8 requirement.

9 It -- the Controlled Substances Act,
10 the infrastructure is a system of checks and
11 balances. And for it to work, everybody's got
12 to do what's required of them in their specific
13 role within the supply chain.

14 Q. In terms of what's required of
15 manufacturers, did DEA ever issue any sort of
16 official guidance informing manufacturers that
17 they were to monitor pharmacies?

18 A. The guidance was that --

19 MR. BENNETT: Wait a second.

20 Objection. Vague.

21 You can answer.

22 THE WITNESS: The guidance was that
23 they have to comply with the obligations, both
24 the manufacturer and the distributors. It's in
25 the Code of Federal Regulations. It's

1 coincident.

2 Activity to distribute by a
3 manufacturer. Therefore, they are required to
4 do exactly the same thing that a distributor
5 did. That's where the guidance is in the Code
6 of Federal Regulations.

7 BY MR. O'CONNOR:

8 Q. Beyond the text of the regulation,
9 though, DEA never sent a letter to registrants
10 informing manufacturers that they needed to
11 monitor the pharmacies distributors were
12 selling to, correct?

13 MR. BENNETT: Objection. Vague.

14 You can answer.

15 THE WITNESS: If I'm not mistaken,
16 every manufacturer got the 2006 and 2007
17 letters that laid out what the obligations were
18 under the Controlled Substances Act in the Code
19 of Federal Regulations.

20 BY MR. O'CONNOR:

21 Q. But neither of those letters said
22 expressly that manufacturers had to monitor
23 pharmacies that distributors were selling to,
24 did they?

25 A. The --

1 MS. SINGER: Objection. Lack of
2 foundation.

3 THE WITNESS: The letters were
4 written and sent to the manufacturers because
5 they also had a distribution component which
6 required them to meet the same standards --
7 legal standards under the Controlled Substances
8 Act and the Code of Federal Regulations in
9 1301.74(b).

10 BY MR. O'CONNOR:

11 Q. DEA never published a formal
12 guidance document informing manufacturers that
13 they were to monitor the pharmacies
14 distributors were selling to, did it?

15 MS. SINGER: Objection. Vague.

16 THE WITNESS: That would be --
17 formal guidance, no. But they're held to the
18 same standards. They still have to maintain
19 effective controls against diversion, which is
20 a statutory obligation as well as a regulatory
21 obligation. And to do that they have to know
22 what is happening with their drugs downstream.

23 BY MR. O'CONNOR:

24 Q. As you sit here today, could you
25 point me to any guidance in writing provided to

1 any manufacturer that articulates the duty you
2 just said existed?

3 MR. BENNETT: Objection. Scope.

4 You're not authorized to disclose
5 any individual DEA investigations or activities
6 that are nonpublic. To the extent that you can
7 answer that question without disclosing
8 individual DEA investigations or activities
9 with a particular manufacturer that is
10 nonpublic, then you may answer the question.

11 MS. SINGER: Objection.

12 Mischaracterizes the witness's testimony.

13 MR. UTTER: Go ahead.

14 THE WITNESS: I stand by what I
15 said. The obligations are in the Code of
16 Federal Regulations and also in 21 USC. And
17 those have been in place since the early '70s.

18 BY MR. O'CONNOR:

19 Q. Mr. Rannazzisi, are you familiar
20 with the term "charge-back"?

21 A. Yes.

22 Q. What do you understand a charge-back
23 to be?

24 MR. BENNETT: Objection. Scope.

25 THE WITNESS: "Charge-back" means --

1 charge-back is -- is referred to by different
2 monikers throughout the supply chain.

3 But from what I understand, it is --
4 is a manufacturer collects data on downstream
5 sales through some sort of compensation
6 agreement with the distributor or the
7 pharmacies.

8 BY MR. O'CONNOR:

9 Q. When did you first hear the term
10 "charge-back"?

11 A. A while ago. Probably sometime
12 before 2010.

13 Q. Okay. Do you remember how you first
14 came to hear that term?

15 MR. BENNETT: Objection. Scope.

16 You're not authorized to disclose
17 investigative information that you acquired
18 that is nonpublic. To the extent that you have
19 disclosed publicly when you heard of that or
20 you have public information, you may use that,
21 but not any confidential investigative
22 information.

23 THE WITNESS: I seem to remember the
24 first time I heard about charge-back
25 information was at a conference. And it was at

1 a -- it was at a conference involving multiple
2 disciplines within industry and the regulated
3 -- the regulators.

4 And it came up in a conversation,
5 but I -- I don't recall exactly when.

6 BY MR. O'CONNOR:

7 Q. In your understanding, do
8 charge-backs have any role in the suspicious
9 order monitoring process?

10 MR. UTTER: Go ahead. You can
11 answer.

12 THE WITNESS: They may, yes.

13 BY MR. O'CONNOR:

14 Q. Did DEA ever issue any guidance to
15 manufacturers informing them that charge-backs
16 were to play a role in suspicious order
17 monitoring?

18 A. D --

19 MR. BENNETT: Objection. Vague.
20 And vague as to time.

21 THE WITNESS: DEA doesn't -- DEA
22 does not tell a registrant or either the man --
23 or a registrant involved in distribution
24 activities what's a suspicious order, besides
25 the -- the definition in 1301.74(b).

1 It's up to the -- the distributor or
2 the manufacturer, distributor to make a
3 decision what information they will use to
4 determine a suspicious orders.

5 BY MR. O'CONNOR:

6 Q. So DEA never issued any guidance to
7 manufacturers informing them that charge-backs
8 were to play a role in suspicious order
9 monitoring, correct?

10 MS. SINGER: Objection. Asked and
11 answered.

12 BY MR. O'CONNOR:

13 Q. I would just like a yes-or-no
14 answer.

15 MS. SINGER: Objection.

16 MR. BENNETT: Objection.

17 The witness can answer the question.

18 THE WITNESS: Besides the
19 regulations and the C.F.R. -- in the CSA, no, I
20 don't know if they ever issued a regulation --
21 any kind of document regarding chargebacks.

22 BY MR. O'CONNOR:

23 Q. Okay. When you were head of the
24 Office of Diversion Control, there was a unit
25 within that office that analyzed ARCOS data,

1 correct?

2 A. Yes.

3 Q. Did that group use ARCOS data to
4 look for leads for investigations?

5 A. They can, yes.

6 Q. Did they, in fact, do that?

7 A. Yes.

8 Q. And would you agree that analyzing
9 the ARCOS data was helpful to the agency in
10 generating leads for investigations?

11 MR. BENNETT: Objection. Vague.
12 And vague as to time.

13 THE WITNESS: The analysis of ARCOS
14 information can help, yes, leads for
15 investigations.

16 BY MR. O'CONNOR:

17 Q. Did the DEA use ARCOS for
18 investigative leads in a timely manner in your
19 view?

20 MS. SINGER: Objection. Vague.

21 MR. BENNETT: Objection. Vague.
22 And objection. Scope. Regarding opinions.

23 THE WITNESS: I don't understand
24 what you mean by "in a timely manner."

25 ARCOS is generally three to six

1 months behind because of the reporting
2 requirements under the C.F.R., so if you are
3 asking me if ARCOS is timely reported, the
4 answer is they are always behind, you know.

5 So when the investigators look at
6 ARCOS data, you are always four to six months
7 behind and what was actually shipped
8 downstream.

9 BY MR. O'CONNOR:

10 Q. Does the fact that the information
11 is received on a slight delay affect its
12 usefulness at identifying diversion?

13 A. Well --

14 MS. SINGER: Objection. Vague.

15 THE WITNESS: Well, it's not a
16 substitute for suspicious orders if that what
17 you are going. A suspicious order under
18 1301.74(b) is reported when discovered. ARCOS
19 is four to six months behind so, therefore, we
20 are always behind. If we are going solely by
21 ARCOS, that is why there is a suspicious order
22 monitoring requirement in the C.F.R.

23 MR. BENNETT: Counsel, we didn't
24 take a break when we switched. When you get to
25 a good point, could we take a break.

1 MR. O'CONNOR: Sure. We can take a
2 break now.

3 THE VIDEOGRAPHER: We are going off
4 the record. This is end of Media Unit No. 2.
5 The time is 10:45.

6 (A short recess was taken.)

7 THE VIDEOGRAPHER: We are going back
8 on the record. This is the start of Media Unit
9 No. 3. The time is 11:00.

10 You may proceed, Counsel.

11 MR. SHKOLNIK: Special Master Cohen,
12 on behalf of Cuyahoga County, CT1 plaintiff,
13 there was an objection lodged before and there
14 was a series of questions by counsel where he
15 was quoting a specific one sentence from a
16 transcript of an episode of a speech or a
17 podcast that the witness gave and the objection
18 made was under Rule 106 that is entitled:
19 "Remainder of or related to writings or
20 recorded statements. If a party introduced all
21 or part of a writing or a recorded statement,
22 the adverse party may require the introduction
23 at that time of any other part or any other
24 writing or recorded statement that in fairness
25 ought to be considered at the same time.

1 The rule is clear that you don't
2 wait until cross to fill in the next segment.
3 This is not a deposition question answer,
4 question answer, but a running colloquy in an
5 interview, and from the plaintiffs' standpoint,
6 both colloquies, counsel took two sentences out
7 of context, where the next sentence if it was
8 read would truly put some question to the point
9 counsel was making.

10 We ask in the future or even now
11 that counsel be directed to go back and present
12 the question and followup statements to the
13 witnesses.

14 MR. O'CONNOR: First of all --

15 SPECIAL MASTER COHEN: Go ahead.

16 MR. O'CONNOR: First of all, we
17 think the -- that the questions as posed to the
18 witness were clear and didn't require any
19 further context.

20 Second, we did introduce the entire
21 exhibit as an exhibit, the entire document
22 there.

23 Third, if and when this ever gets to
24 be played at trial, we can certainly provide
25 the finder of fact with the entire document.

1 SPECIAL MASTER COHEN: So just an
2 observation. First of all, counsel is free to
3 make a 106 objection. I just think that it can
4 be made in five words or less. We all know
5 what the shorthand is, and so it doesn't need
6 to be a long speaking objection.

7 Second of all, this is a discovery
8 deposition and so what happens at trial which
9 is really more -- I'm not saying that Rule 106
10 isn't directed at depositions, but it's more
11 critical at trial and so I just make that
12 observation.

13 And finally, I agree that if counsel
14 wants to make a Rule 106 objection and ask that
15 additional context be given to the witness,
16 that objection can be made and we can deal with
17 it at that time.

18 All right. Let's resume.

19 MS. SINGER: Special Master Cohen,
20 can I just ask a clarifying question about
21 speaking objections, when there is a 106
22 objection, do you want us to point you to the
23 testimony or --

24 SPECIAL MASTER COHEN: No. You just
25 need to say we object under Rule 106,

1 additional context is necessary, and then we
2 can deal with it at that time.

3 MS. SINGER: Okay.

4 BY MR. O'CONNOR:

5 Q. Mr. Rannazzisi, do you know an
6 individual named Lenny Bernstein?

7 A. Yes.

8 Q. He's a reporter at the Washington
9 Post, correct?

10 A. Yes.

11 Q. And you have spoken with him in the
12 past?

13 A. Yes.

14 Q. On multiple occasions, correct?

15 A. Yes.

16 Q. Are you familiar with Scott Higham?

17 A. Yes.

18 Q. He is also a reporter at the
19 Washington Post, isn't he?

20 A. Yes.

21 Q. And you have met with him on
22 multiple occasions?

23 A. Yes.

24 Q. And at any time in your meetings
25 with Mr. Bernstein and Mr. Higham, did you

1 provide them with any documents?

2 A. No.

3 Q. Are you aware of anyone that
4 provided documents belonging to the DEA to Mr.
5 Higham or Mr. Bernstein?

6 MS. SINGER: Objection. Scope.

7 THE WITNESS: I'm not aware of any
8 documents provided to them other than what the
9 department provided to them.

10 BY MR. O'CONNOR:

11 Q. Are you aware that they received
12 confidential documents that were not provided
13 by the department?

14 MS. SINGER: Objection. Foundation.

15 MR. UTTER: Same objection.

16 Go ahead.

17 THE WITNESS: No.

18 BY MR. O'CONNOR:

19 Q. When did you first meet with Mr.
20 Bernstein?

21 A. It was -- it was probably in late --
22 probably '16, sometime mid-'16, 2016.

23 Q. Did you meet with Mr. Higham around
24 that same time?

25 A. I met Mr. Higham later.

1 Q. Do you remember roughly when that
2 was?

3 A. It was probably a month or two
4 later.

5 Q. Did you reach out to them?

6 A. No.

7 Q. They came to you?

8 A. Yes.

9 Q. And at any time in your discussions
10 with Mr. Bernstein and Mr. Higham, did you
11 provide them with any information that you
12 learned in the course of your duties at DEA?

13 A. Actually, when we talked, I told
14 them specifically that the information can be
15 obtained either through PACER or FOIA, but I
16 didn't.

17 Q. So you did not provide them with any
18 confidential --

19 A. No.

20 Q. -- DEA information. Okay.

21 MR. BENNETT: Let him finish the
22 question first, please.

23 THE WITNESS: Okay.

24 BY MR. O'CONNOR:

25 Q. When you first consulted with Mr.

1 Bernstein, had you already been retained by
2 plaintiffs' lawyers in connection with the
3 opioid investigation?

4 MS. SINGER: Objection. Vague.

5 THE WITNESS: I don't recall.

6 BY MR. O'CONNOR:

7 Q. When you first spoke with Mr.
8 Higham, had you been retained by plaintiffs'
9 lawyers in connection with the opioid
10 litigation?

11 A. I think it was right about that
12 time. I had done -- it was right about that
13 time, because I think they saw that I had done
14 other -- my name was mentioned in other
15 newspaper articles and so that's when -- when
16 Lenny approached me, so I guess it was right
17 about that time, yes.

18 Q. Are you still in contact with Mr.
19 Bernstein or Mr. Higham today?

20 A. I haven't talked to Mr. Bernstein in
21 a long time and Mr. Higham, I talked to him,
22 you know, probably once every couple of weeks.

23 Q. Other than Bernstein or Higham, have
24 you disclosed to any other reporters or
25 journalists any documents from the DEA?

1 MR. BENNETT: Objection. Form of
2 the question. Objection to the
3 mischaracterization of the testimony that he
4 did provide documents to Mr. Bernstein or Mr.
5 Higham.

6 MS. SINGER: Objection. Scope.

7 THE WITNESS: What was the question
8 again. I'm sorry.

9 BY MR. O'CONNOR:

10 Q. Have you ever provided any reporters
11 or journalists DEA documents?

12 A. No. What I generally do is if a
13 reporter asks questions, I basically tell them
14 it's available through FOIA or if it's
15 specific, I tell them to look on PACER. Almost
16 all of our cases are listed on PACER.

17 MR. O'CONNOR: We will take a short
18 break and switch questioners. Go off the
19 record.

20 THE VIDEOGRAPHER: We are going off
21 the record. The time is 11:08.

22 (A short recess was taken.)

23 THE VIDEOGRAPHER: We are back on
24 the record. The time is 11:11.

25 You may proceed, Counsel.

1 EXAMINATION BY COUNSEL FOR WALMART

2 BY MR. STEPHENS:

3 Q. Mr. Rannazzisi, good morning. My
4 name is Neal Stephens. I'm with the Jones Day
5 law firm and I represent Walmart.

6 How are you this morning?

7 A. Fine, thank you.

8 Q. I will have some questions for you
9 that relate to the retail chain pharmacies and
10 those will -- in this litigation will include
11 Walmart, CVS, Rite Aid, Walgreens and HBC,
12 Giant Eagle. Sometimes I will use them all or
13 sometimes I may just use brand retail chain
14 pharmacies.

15 A. Okay.

16 Q. All right. So I'd like to start by
17 asking you a few questions about your general
18 employment history and your general duties in
19 your various positions at DEA, okay?

20 A. Yes, sir.

21 Q. All right. As head of the diversion
22 control unit, your duties would have included
23 the leadership responsibility for the entire
24 group, correct?

25 A. For the entire division.

1 Q. Of the diversion control group,
2 right?

3 A. Yes.

4 Q. Okay. So you would help set the
5 tone and the culture for how the diversion
6 control group was going to handle every aspect
7 of enforcing the Controlled Substances Act?

8 MR. BENNETT: Objection. Vague.

9 THE WITNESS: When you say, "set the
10 tone," I'm just curious, what does that mean.

11 BY MR. STEPHENS:

12 Q. So how large is this organization
13 you are running?

14 A. Well, in headquarters, it was about
15 300 -- between contractors and investigators,
16 employees, about 340, and then in the field,
17 there was probably 600 -- between 5 and 600
18 diversion investigators and support staff and
19 probably about 1200 special agents and task
20 force officers.

21 Q. So it's a big organization, correct?

22 A. Uh-huh.

23 Q. And my point was, as the leader,
24 kind of like a CEO in a company, part of your
25 responsibility and your job duties was to set

1 the tone for how the organization was going to
2 go about doing its business; is that fair?

3 MS. SINGER: Same objection as to
4 vagueness.

5 MR. BENNETT: Join that Objection.

6 THE WITNESS: If you are saying what
7 the priorities are, how -- what the priorities
8 are, our priorities are based on what the field
9 management feels the priorities are and then
10 just following what the violations or -- of the
11 Controlled Substances Act in the code of
12 federal regulations.

13 BY MR. STEPHENS:

14 Q. As the deputy assistant
15 administrator for the diversion control group,
16 would you agree that you supervised DEA's
17 efforts to identify where diversion was
18 occurring in the United States?

19 A. I supervised, yes, diversion cases
20 in general.

21 Q. As part of your duties, do you also
22 agree that you supervised DEA's efforts to
23 identify precisely who was diverting controlled
24 substances?

25 MR. BENNETT: Objection. Vague.

1 THE WITNESS: We basically
2 investigated diversion across the board.

3 BY MR. STEPHENS:

4 Q. Okay. And part of the role as the
5 leader was to try and identify who was
6 diverting; is that fair?

7 A. Investigators identified who was
8 diverting.

9 Q. And they reported up to you as the
10 leader?

11 MS. SINGER: Objection.

12 THE WITNESS: Not every case, no.

13 BY MR. STEPHENS:

14 Q. Some of the investigators who were
15 trying to identify where diversion was
16 occurring reported up to you, right?

17 A. Investigations would be reported up
18 to me on an as-needed basis.

19 Q. Did you help set DEA's practices and
20 policies regarding how DEA would investigate
21 and prosecute diversion matters, including who
22 to target for potential prosecution of
23 criminal, civil or administrative enforcement
24 actions?

25 MS. SINGER: Objection. Compound

1 question and vague.

2 MR. BENNETT: I will join those
3 objections.

4 MR. UTTER: Same objection.

5 THE WITNESS: Could you repeat the
6 question one more time, please.

7 BY MR. STEPHENS:

8 Q. I am just trying to understand, as
9 the leader of the diversion control group, did
10 you help set policies and protocols regarding
11 how DEA was going to conduct its investigation
12 of diversion matters?

13 MS. SINGER: Same objection.

14 MR. BENNETT: Same objection.

15 THE WITNESS: Policies and protocols
16 are set by the agency. I don't -- I don't
17 unilaterally create policies and protocols.
18 It's done by the agency with my input.

19 BY MR. STEPHENS:

20 Q. But that would be part of your job
21 duties to provide input to that, correct, sir?

22 A. Yes.

23 Q. All right. And part of your job
24 duties would also involve supervising and
25 proving certain charging decisions in

1 administrative, civil or criminal diversion
2 matters?

3 MS. SINGER: Objection. Vague and
4 compound question.

5 MR. BENNETT: Objection. Scope.

6 You are not authorized to disclose
7 any information that would reveal the internal
8 deliberative process of the United States
9 Department of Justice and you may not disclose
10 any matters of prosecutorial discretion.

11 To the extent that you can answer
12 the question without disclosing those areas of
13 information, you may answer.

14 MR. UTTER: Go ahead.

15 THE WITNESS: Like all
16 investigations, there is levels of review that
17 it must go through, so U.S. attorneys are
18 generally involved in these decisions as is
19 counsel's office and also other individuals
20 within the Drug Enforcement Administration
21 leadership.

22 BY MR. STEPHENS:

23 Q. Mr. Rannazzisi, I understand that
24 others might be involved. But my point is,
25 this is part of the general duties that you had

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1 while you were deputy assistant administrator
2 for diversion control to supervise and approve
3 at times certain charging decisions in
4 administrative, civil or criminal matters?

5 MS. SINGER: Objection. Vague.
6 Still a compound question.

7 MR. BENNETT: I join those
8 objections.

9 THE WITNESS: In administrative
10 cases, I would approve certain things. In
11 civil and criminal cases, that falls on the
12 shoulders of the U.S. attorney.

13 BY MR. STEPHENS:

14 Q. Okay. Would you help establish the
15 manner in which DEA was going to interact with
16 registrants including what information DEA
17 might provide to registrants to reduce
18 diversion?

19 MS. SINGER: Objection. Vague.

20 BY MR. STEPHENS:

21 Q. As part of your general job duties?

22 A. Any dealings with registrants, any
23 information would -- we would consult with
24 counsel's office and the administrator before
25 we do that.

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1 Q. But it was part of your general
2 duties to be involved in that process; is that
3 fair, sir?

4 A. I was involved but --

5 MS. SINGER: Objection.
6 Mischaracterizes the witness's testimony.

7 THE WITNESS: I was involved but I
8 was not the ultimate decisionmaker on that.

9 BY MR. STEPHENS:

10 Q. Okay. But your involvement was part
11 of your general duties; is that fair?

12 A. Yes.

13 Q. Thank you. All right. A part of
14 your general duties also included speaking on
15 DEA's behalf to Congress or the media or other
16 law enforcement agencies or industry and
17 community groups about diversion issues while
18 you were the deputy assistant administrator for
19 diversion control?

20 MS. SINGER: Same objection as to
21 compounded question.

22 MR. BENNETT: Compound and vague.

23 MR. UTTER: Same objection.

24 Go ahead.

25 THE WITNESS: One of my requirements

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1 was that I would -- I would be assigned to do
2 testimony before Congress or speak to --
3 regulated -- the regulated community,
4 regulatory agencies, law enforcement, community
5 groups, parent's groups and things like that,
6 so yes.

7 BY MR. STEPHENS:

8 Q. And as part of your duties when you
9 would provide information to Congress, some of
10 that information that you were providing was
11 information on where DEA's diversion group saw
12 diversion occurring in the United States.

13 MS. SINGER: Objection. Compound
14 question.

15 THE WITNESS: I testified over 32
16 times, over a long stretch, a long period of
17 time, so that's changed -- that all changed as,
18 you know, as the drug issues changed, so I
19 provided information, whatever information at
20 that point in time the Drug Enforcement
21 Administration and the Department of Justice
22 thought was appropriate for that particular
23 hearing.

24 BY MR. STEPHENS:

25 Q. Okay. And the information that you

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1 provided to Congress, that was part of your
2 general duties on behalf of DEA as the leader
3 of diversion control to provide that
4 information through to Congress?

5 MS. SINGER: Objection. Compound
6 question.

7 MR. UTTER: Go ahead.

8 THE WITNESS: Yes, it was the -- it
9 was the -- my job responsibility to put forth
10 the Department of Justice and the DEA's
11 position on matters related to that particular
12 hearing for Congress.

13 BY MR. STEPHENS:

14 Q. Okay. As part of your general
15 duties as the leader of the diversion control
16 group, as deputy assistant administrator, did
17 you also participate in making sure that DEA
18 did not do anything to contribute to the
19 diversion of controlled substances?

20 MS. SINGER: Objection. Vague.
21 Compounded question.

22 MR. BENNETT: Objection. Vague.

23 THE WITNESS: DEA follows a
24 requirements under 21 U.S.C. and the code of
25 federal regulations. We were not in the

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1 business of creating diversion. We are in the
2 business of making sure the registered -- the
3 regulated community is complying with the law
4 and the regulations.

5 BY MR. STEPHENS:

6 Q. Part of your duties included
7 interacting with field division leadership at
8 the various field offices for DEA around the
9 country?

10 A. Yes.

11 Q. And also interacting with United
12 States attorney's offices on matters; is that
13 fair?

14 A. Yes.

15 Q. You also would interact with other
16 federal law enforcement agencies and state and
17 local law enforcement agencies regarding
18 diversion issues, correct?

19 A. That's --

20 MS. SINGER: Objection. Vague.

21 THE WITNESS: That's correct.

22 BY MR. STEPHENS:

23 Q. And as the leader of your group,
24 would you also at a high level oversee the
25 hiring, training and continuing education of

1 the diversion control group's diversion
2 investigators?

3 A. No.

4 MR. BENNETT: Objection. Vague.

5 THE WITNESS: I -- I oversee the
6 hiring with the administrator's office.
7 Training is done by a separate training office.

8 BY MR. STEPHENS:

9 Q. Okay. Would your group provide
10 information to the training group as to how to
11 train diversion investigators?

12 A. I'm sure --

13 MR. BENNETT: Objection. Scope.

14 You can answer that question "yes"
15 or "no" only.

16 THE WITNESS: Yes.

17 BY MR. STEPHENS:

18 Q. So part of your general duties would
19 have been ensuring that the training group who
20 was training DEA's diversion investigators had
21 what you thought was the appropriate
22 information to train up the diversion
23 investigators?

24 MS. SINGER: Objection.

25 Mischaracterizes the witness's testimony. And

1 compound.

2 THE WITNESS: And I'm just trying to
3 think.

4 Could you repeat it one more time.

5 BY MR. STEPHENS:

6 Q. Yes, sir.

7 Part of your general duties would
8 have been ensuring that the training group
9 responsible for training DEA's diversion
10 investigators had the information that your
11 group, the diversion control group, thought was
12 appropriate for the diversion investigation --
13 diversion investigators to learn during the
14 training.

15 MS. SINGER: Same objections.

16 THE WITNESS: I believe that
17 training got information, yes, from my people.
18 But they also reached out to field entities to
19 make sure that what they're -- what they're
20 training -- or their training program is the
21 most up-to-date information.

22 BY MR. STEPHENS:

23 Q. Okay. Fair enough, Mr. Rannazzisi.
24 And I'm not suggesting that your group was the
25 only one that provided information through the

1 training of diversion investigators.

2 I'm only trying to make sure that I
3 understand that that was part of the -- the job
4 duties that you supervised for diversion
5 control, that they participated at some level
6 in that process.

7 That's fair, right?

8 MR. BENNETT: Objection. Vague.

9 BY MR. STEPHENS:

10 Q. Yes? Is that fair?

11 A. Well, who participated?

12 Q. That the diversion control group
13 participated at some level in providing
14 information through the training.

15 A. Yeah. Certainly. Certainly people
16 in the diversion control group did, yes.

17 Q. And would the diversion
18 investigators be trained on how to conduct due
19 diligence on applications for registrations
20 from doctors and pharmacies?

21 MS. SINGER: Objection. Scope.

22 MR. BENNETT: You can answer.

23 THE WITNESS: I'm not sure what --
24 I -- I know there's training on applicants. I
25 know there's both formal training and then

1 training in the field. I just -- I'm not sure
2 exactly what that training entails.

3 BY MR. STEPHENS:

4 Q. Okay. Mr. Rannazzisi, for your
5 benefit, I'm not asking you to know like the 40
6 bullet points that are covered --

7 A. Right.

8 Q. -- in the slide deck.

9 All I'm trying to understand is
10 whether diversion control group would have been
11 involved in providing some information about
12 training diversion investigators on how to
13 conduct due diligence on applications for
14 registration by doctors and pharmacies.

15 MS. SINGER: Objection. Asked and
16 answered.

17 THE WITNESS: I'm pretty sure the
18 Office of Diversion Control did provide input
19 on applicants. We have a whole applicant
20 section, and I know they've trained before.

21 BY MR. STEPHENS:

22 Q. Okay. And did part of your job
23 duties also -- again, talking about the
24 training of diversion investigators, another
25 topic that would have been included that

1 diversion control would have provided some
2 guidance on was how diversion investigators
3 could use ARCOS data and suspicious order
4 report information in diversion investigations.

5 MS. SINGER: Objection. Foundation.
6 Compound question.

7 MR. BENNETT: Objection. Scope.

8 To the extent that your answer would
9 reveal investigative or intelligence gathering
10 and the summation techniques whose
11 effectiveness would thereby be impaired, you're
12 not authorized to answer. To the extent that
13 you can answer without disclosing such
14 information, you may.

15 MR. UTTER: Same objection.

16 Go ahead.

17 THE WITNESS: Investigators were
18 trained in ARCOS.

19 BY MR. STEPHENS:

20 Q. Okay. And without getting into any
21 details, again, of every bit of information
22 that appear in a slide deck, some of that
23 information would have come through the
24 training from the diversion control group, your
25 group.

1 A. You mean the Office of Diversion
2 Control.

3 And I'm -- I'm not sure.

4 Q. Your office -- the office -- I'm
5 sorry. I'll --

6 A. It's the -- it's the Office of
7 Diversion Control.

8 Q. Okay. I apologize to you. I'll get
9 that right. Office of Diversion Control. Got
10 it.

11 The Office of Diversion Control
12 would have -- as far as the training, would
13 have provided some information for diversion
14 investigators as to suspicious order report
15 information; is that fair?

16 A. Again, that would come from training
17 with input from the field and from the Office
18 of Diversion Control.

19 Q. Okay. So let me ask you some kind
20 of basic questions about DEA's org chart so I
21 understand how the Office of Diversion Control
22 fits in.

23 Each DEA field division is run by a
24 special agent in charge.

25 A. Yes.

1 Q. And there are approximately 23 field
2 divisions in the United States?

3 A. It's changed over the last three
4 years. I'm not sure how many --

5 Q. Okay.

6 A. -- there is.

7 Q. During your time, from 2005 to 2015,
8 approximately how many DEA field divisions were
9 there?

10 A. I believe there was 20 or 21.

11 Q. Okay. And a DEA field division can
12 cover several states where there are several
13 major cities in a region, right?

14 A. Yes.

15 Q. So, for example, my understanding is
16 that you spent some time in the Detroit field
17 division; is that right?

18 A. Yes.

19 Q. The -- the main field division
20 headquarters is in the City of Detroit for the
21 Detroit region, right?

22 A. The Detroit division office is in
23 Detroit, yes.

24 Q. Okay. There are satellite offices
25 in other major cities in the region though,

1 correct?

2 A. Yes.

3 Q. For example, there's a -- a district
4 office in Cleveland, correct?

5 MR. BENNETT: Objection. Vague as
6 the time.

7 BY MR. STEPHENS:

8 Q. During your time in 2005 and 2015,
9 there was a district office in Cleveland; is
10 that fair?

11 A. No. It was a resident office in
12 Cleveland.

13 Q. Okay. So --

14 A. The district office sat in Columbus.

15 Q. Okay. So during your time, the
16 district office would have had a resident agent
17 in charge as the number one agent in the -- in
18 that office in Cleveland, right?

19 A. No.

20 MS. SINGER: Objection. Vague.

21 BY MR. STEPHENS:

22 Q. What was the title of the highest
23 ranking DEA officer in Cleveland during your
24 time as deputy administrator -- assistant
25 administrator?

1 A. He was a resident agent in charge
2 for a resident office. Cleveland was a
3 resident office.

4 Q. Okay. And in DEA terms that's a
5 RAC, right, a resident agent --

6 A. Right.

7 Q. -- in charge?

8 A. Yes.

9 Q. Now, DEA structures -- typically
10 structures its enforcement group in a separate
11 organization than the diversion group, right?

12 MR. BENNETT: Objection. Vague.

13 THE WITNESS: Not necessarily.

14 Because there are tactical diversion squads
15 that have both special agents, diversion
16 investigators, and task force officers in the
17 same group.

18 BY MR. STEPHENS:

19 Q. Okay. Enforcement agents are
20 special agents, correct?

21 A. Yes.

22 Q. Enforcement agents carry guns and
23 badges, and they investigate drug
24 trafficking -- typically investigate drug
25 traffic organizations who traffic illegal drugs

1 like cocaine.

2 MS. SINGER: Objection. Compound
3 question.

4 MR. BENNETT: Objection. Vague.

5 And scope.

6 MR. UTTER: Go ahead.

7 THE WITNESS: Enforcement agents,
8 special agents, carry guns. They have arrest
9 authority, arrest powers. But they investigate
10 all -- all criminal -- all criminal, civil
11 violations of the Controlled Substances Act.
12 They are not limited to what they investigate.

13 BY MR. STEPHENS:

14 Q. Okay. The -- in the field there are
15 many diversion investigator squads that are
16 comprised of diversion investigators, correct?

17 A. Yes.

18 MS. SINGER: Objection.

19 MR. BENNETT: Objection.

20 MS. SINGER: Compound.

21 MR. BENNETT: And objection. Vague.

22 BY MR. STEPHENS:

23 Q. And -- and, Mr. Rannazzisi, in the
24 field offices -- let's take the Miami field
25 office, for example.

1 Historically the Miami field office,
2 during your tenure, would have had enforcement
3 groups that are filled with enforcement agents
4 only, correct?

5 MS. SINGER: Objection. Compound
6 question. And vague.

7 MR. BENNETT: Objection. Vague.

8 Also objection. Scope.

9 You can answer.

10 THE WITNESS: Yes. There -- there
11 are diversion groups that are strictly
12 diversion investigators with nothing -- they
13 don't have any other type of investigative
14 personnel.

15 BY MR. STEPHENS:

16 Q. And the flip side of that is there
17 are enforcement groups that are filled only
18 with agents, right?

19 A. Yes.

20 Q. And the other group that you
21 mentioned is a TDS squad, which might be a bit
22 of a hybrid where it's got a little bit of both
23 some enforcement agents and some diversion
24 agents and maybe some state and local officers,
25 too, correct?

MS. SINGER: Objection. Compound question.

MR. BENNETT: Objection. Scope.

THE WITNESS: The tactical -- the tactical diversion squad is generally made up of diversion investigators, special agents and task force officers.

BY MR. STEPHENS:

Q. Now, during your ten years running the -- as deputy assistant administrator and running the Office of Diversion you would have interacted with a lot of special agents in charge that were running field divisions; is that fair?

MR. BENNETT: Objection. Vague.

THE WITNESS: I've met and talked to most, if not all, the special agents in charge during my tenure, yes.

BY MR. STEPHENS:

Q. Okay. And that -- would that be more than a hundred?

A. There's generally 21, when I was there, special agents in charge. And they rotated in and out, retired. I don't know. Probably -- I don't know if it was a hundred,

but a number, probably half that.

Q. About 50?

A. Yeah.

Q. How many of those 50 special agents in charge came up through the ranks as diversion investigators at DEA?

MS. SINGER: Objection. Scope.

MR. BENNETT: Objection. Scope.

You can answer if you know.

THE WITNESS: I -- I only know of -- of one. I'm sure there are others, but I only know of one in particular.

BY MR. STEPHENS:

Q. Would you agree that, of the 50 or so special agents in charge that you had experience working with, they had more experience handling DEA enforcement investigations as opposed to DEA diversion investigations?

MS. SINGER: Objection. Foundation. And compound question.

MR. BENNETT: Objection. Vague. And scope.

THE WITNESS: I -- I -- I can't agree to that. Because I don't know each

individual's -- each individual special agent in charge's background or what kind of cases he worked --

MR. STEPHENS: Okay.

THE WITNESS: -- during his career.

BY MR. STEPHENS:

Q. Is -- an SAC is a level 1811 position in DEA terms, correct?

MR. BENNETT: Objection. Scope.

THE WITNESS: Yes.

BY MR. STEPHENS:

Q. A -- a diversion employee can -- can reach an 1801 level, correct?

MR. BENNETT: Objection. Scope.

THE WITNESS: When you say an 1801 level, are you talking -- they're -- they're 1801s.

MR. STEPHENS: Okay.

THE WITNESS: Yeah. They -- they don't cross over.

BY MR. STEPHENS:

Q. Right.

So to be a SAC, you have to be an 1811, correct?

A. Yes.

Q. So if a diversion investigator is going to make it all the way to become a SAC, at some point that diversion investigator is going to need to become a special agent, right?

A. Yes.

Q. Okay.

MS. SINGER: Objection. Compound question.

BY MR. STEPHENS:

Q. So is it fair to say then that one of your challenges as deputy administrator was trying to get special agents in charge in the various field divisions to prioritize diversion matters on equal footing with enforcement investigation?

MS. SINGER: Objection. Compound question. Lack of foundation. And vague.

MR. BENNETT: Objection. Vague. Objection. Scope.

THE WITNESS: The field divisions are -- they operate autonomously. So the special agent in charge decides what the priorities field divisions are and their field management plans and just what their senior leadership in the division -- they make that

1 decision.

2 So -- but I've never really had
3 problems with the field divisions not
4 addressing diversion issues, no.

5 Q. So the special agent in charge would
6 have some authority as to setting his or her
7 priorities on the investigations that they were
8 going to pursue; is that fair?

9 A. Yes.

10 Q. Let me just get the terminology
11 right.

12 A RAC runs a resident office, right?

13 A. Yes.

14 Q. Okay. Would you expect that a RAC
15 who is running a resident office in 2015 would
16 be familiar with a suspicious order report?

17 MR. BENNETT: Objection. Scope.
18 Calls for speculation.

19 THE WITNESS: I would have no idea
20 what each individual RAC knows. But I do know
21 that it -- most RACs, most special agents in
22 charge, and most, yeah, ASACs, assistant
23 special agents in charge, when they have
24 questions or they want to know the answer to a
25 diversion question, they will go to their --

1 whoever their leadership is, be it a group
2 supervisor or a DPM, within the field division.
3 Or they'll call headquarters and talk to me.

4 BY MR. STEPHENS:

5 Q. Would you expect a RAC who runs a --
6 a resident office in 2015 to know how many
7 suspicious order reports had come into his or
8 her office that year?

9 MR. BENNETT: Objection. Scope.
10 Calls for speculation.

11 THE WITNESS: I would have no idea.

12 BY MR. STEPHENS:

13 Q. Would you expect that a RAC who is
14 running a resident office in 2015 to have
15 received training at DEA regarding what DEA
16 might be able to do with a suspicious order
17 report to investigate potential sources of
18 diversion?

19 MS. SINGER: Object --

20 MR. BENNETT: Objection.

21 MS. SINGER: Go ahead.

22 MR. BENNETT: Objection. Scope.
23 Objection. Calls for speculation.

24 MS. SINGER: And objection.
25 Compound question.

1 THE WITNESS: The resident agent in
2 charge responsibilities are to run the office.
3 The responsibilities for suspicious order
4 monitoring are -- are that of the diversion
5 investigators and the diversion leadership
6 within that office.

7 BY MR. STEPHENS:

8 Q. So you would not necessarily expect
9 a RAC or an ASAC to understand how to use a
10 suspicious order report in a diversion
11 investigation?

12 MR. BENNETT: Objection.
13 Mischaracterizes testimony. Calls for
14 speculation.

15 THE WITNESS: I wouldn't know what
16 each individual RAC or ASAC knows or doesn't
17 know about suspicious order monitoring.

18 BY MR. STEPHENS:

19 Q. As the deputy assistant
20 administrator of the Office of Diversion
21 Control, did you take any steps to ensure that
22 SACs, ASACs and RACs, the lead supervisors in
23 the various field division offices, all
24 received training on how to use a suspicious
25 order report to investigate potential sources

1 of diversion?

2 MS. SINGER: Objection. Compound
3 question. And scope.

4 MR. BENNETT: I'll join both of
5 those objections.

6 THE WITNESS: I seem to remember
7 joint supervisory conferences where ASACs,
8 RACs, GSs, and DPMs came in to headquarters
9 and/or did it in the field where we discussed
10 suspicious order monitoring, among other
11 things, yes.

12 BY MR. STEPHENS:

13 Q. Okay. Would you expect an -- a
14 resident agent in charge of a resident office
15 in 2015 to know what information ARCOS could
16 generate to support diversion investigations?

17 MR. BENNETT: Objection. Scope.
18 Calls for speculation.

19 THE WITNESS: Again, I can't tell
20 you exactly what the resident agents in charge
21 or the assistant special agents in charge knew
22 about ARCOS. But they did have more than
23 competent investigators and GSs and DPMs at
24 their disposal to explain that.

25 BY MR. STEPHENS:

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Q. With U.S. Attorney's Offices -- you would work with U.S. Attorney's Offices who are running criminal diversion investigations?

Did you have experience doing that as part of your general duties as deputy assistant administrator during your tenure?

MR. BENNETT: Objection. Scope.

You're not authorized to disclose any information regarding specific DEA investigations or activities or any matters of prosecutorial discretion involving specific U.S. Attorneys' Offices. However, you may answer the question generally.

THE WITNESS: I have talked to several U.S. Attorneys -- Assistant United States Attorneys over the years regarding investigations, yes.

BY MR. STEPHENS:

Q. Okay. And -- and I'm -- I'm not going to ask about specific investigations.

But did you ever have any experience, just "yes" or "no," with the situation where any prosecutors asked the Office of Diversion Control to hold off on pursuing either administrative or civil relief

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during the pendency of a criminal investigation?

MS. SINGER: Objection. Vague. And foundation.

MR. BENNETT: Objection. Scope.

You are not authorized to disclose communications that would reveal matters of prosecutorial discretion or attorney-client communications.

SPECIAL MASTER COHEN: It is a yes-or-no question.

THE WITNESS: Could you answer the question -- or ask the question again.

MR. BENNETT: Well --

MR. UTTER: His answer suggests a conversation.

MR. BENNETT: Yeah. I think the answer would -- if he answered "yes," it would suggest what that advice was to hold off.

May we speak with the witness? Because if the answer is "no," then that makes it easy.

May we speak with the witness out in the hallway for one brief second?

SPECIAL MASTER COHEN: One second.

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MR. BENNETT: So --

SPECIAL MASTER COHEN: Yes, you may.

MR. BENNETT: Thank you.

THE VIDEOGRAPHER: We are going off the record.

The time is 11:42.

(A short recess was taken.)

THE VIDEOGRAPHER: We are back on the record.

The time is 11:47.

You may proceed, Counsel.

MR. BENNETT: Counsel, Special Master Cohen, thank you for allowing us the opportunity to meet with the witness.

After consulting with the witness and speaking to counsel with DEA, we believe that the witness can answer the question whether he personally has had any communication with prosecutors in which he was asked to hold off on pursuing either administrative or civil relief during the pendency of a criminal investigation.

Any questions beyond that would implicate attorney-client privileged communications, matters of prosecutorial

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discretion, and the internal deliberative process of the United States Department of Justice, and we would instruct the witness not to answer beyond "yes" or "no" to the question I just stated.

MR. STEPHENS: He may have changed my question a little bit.

MR. BENNETT: I did. You said "Office of Diversion Control." I said him personally.

MR. STEPHENS: Okay. So, Special Master Cohen, I've got a yes-or-no question about communication that may have also filtered up to him. And that's my question.

SPECIAL MASTER COHEN: Why don't you start with that one, and we see how far we get.

MR. STEPHENS: Start with the first one?

SPECIAL MASTER COHEN: The first one, yeah.

MR. STEPHENS: Okay. Yes, sir.

BY MR. STEPHENS:

Q. So, Mr. Rannazzisi, did you personally have any communications, during your tenure as deputy assistant administrator, with

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1 members of U.S. Attorney's Offices or the
2 criminal division of the Justice Department
3 related to holding off on civil or
4 administrative diversion matters while the
5 Justice Department or U.S. Attorney's Office
6 ran a criminal investigation?

7 MR. BENNETT: Objection. Scope.
8 Attorney-client privilege.

9 You can answer that question "yes"
10 or "no only."

11 THE WITNESS: No.

12 BY MR. STEPHENS:

13 Q. Mr. Rannazzisi --

14 MS. SINGER: I'm sorry to interrupt.
15 But we're not getting it anymore.

16 THE REPORTER: Okay. Let's go off
17 the record for a moment.

18 THE VIDEOGRAPHER: We are going off
19 the record.

20 The time is 11:49.

21 (A short recess was taken.)

22 THE VIDEOGRAPHER: We are going back
23 on the record.

24 The time is 11:52.

25 You may proceed, Counsel.

1 BY MR. STEPHENS:

2 Q. All right. Mr. Rannazzisi, to
3 follow up on my last question, did you have any
4 communications in the diversion control group
5 related -- that you're familiar with where U.S.
6 Attorney's Offices conducting criminal
7 investigations asked the Office of Diversion
8 Control to hold off on pursuing civil or
9 administrative diversion matters while the U.S.
10 Attorney's Office ran a criminal investigation?

11 MR. BENNETT: Objection.
12 Attorney-client privilege, matters of
13 prosecutorial discretion, and information that
14 would reveal the internal deliberative process
15 within the United States Department of Justice.
16 Instructing the witness he's not
17 authorized to answer this question at this
18 time.

19 MR. STEPHENS: It's -- it's a
20 yes-or-no question. All I'm asking is whether
21 he -- he was briefed, similar to the question
22 that I asked him before, which is whether he
23 had actual personal interaction with U.S.
24 Attorney's Office.

25 MR. BENNETT: This -- this would go

1 directly to the heart of attorney-client
2 privileged communications when the U.S.
3 Attorney's Office is discussing with DEA how to
4 conduct criminal, civil and administrative
5 cases.

6 It also goes into prosecutorial
7 discretion as far as need to pursue civil cases
8 versus when to pursue criminal cases and the
9 order of those.

10 And I believe that this witness has
11 not been authorized to answer those questions.
12 And it would involved -- even answering just
13 "yes" or "no" would involve the nature of the
14 advice that was given or the communications by
15 the attorneys and would instruct the witness
16 that he's not authorized to answer that
17 question.

18 SPECIAL MASTER COHEN: Okay. So
19 because he specifically asked whether -- you
20 used the word "hold off." And I think that
21 that would, if the witness answered it, reveal
22 attorney-client communications.

23 There may be something else you can
24 ask that is truly a simple yes-or-no question
25 that wouldn't get into the nature of the

1 communication. But that isn't that question.

2 MR. STEPHENS: Let me try and
3 restate.

4 BY MR. STEPHENS:

5 Q. Did you have communications with
6 anyone in your diversion control group related
7 to any request from a U.S. Attorney's Office
8 involving the timing of parallel proceedings
9 where the U.S. Attorney's Office was conducting
10 a criminal investigation and the Office of
11 Diversion Control was running a civil or
12 administrative investigation?

13 MR. BENNETT: Objection. Scope.

14 That would require revealing that
15 the U.S. Attorney's Office made such a -- a
16 request or there was communications from the
17 U.S. Attorney's Office.

18 So to the extent that your answer
19 would disclose communications either with
20 counsel of the DEA or with attorneys --
21 attorneys at the U.S. Attorney's Office, you're
22 not authorized to answer it.

23 To the extent that you can answer
24 without revealing those communications, you may
25 answer the question.

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1 Do we need to consult out in the
2 hallway?

3 THE WITNESS: Just briefly.

4 MR. BENNETT: May we go off the
5 record again to consult with the witness about
6 matters of privilege?

7 THE VIDEOGRAPHER: We are going off
8 the record --

9 MR. BENNETT: Wait.

10 MR. STEPHENS: Yeah. No. I don't
11 object to that. Let him go off the record.

12 THE VIDEOGRAPHER: We are off the
13 record. The time is 11:56.

14 (A short recess was taken.)

15 THE VIDEOGRAPHER: We are back on
16 the record. The time is 12:03.

17 You may proceed, Counsel.

18 MR. BENNETT: Thank you.

19 We have had an opportunity to speak
20 with the witness regarding privileged issues
21 and after reviewing the question that was
22 asked, the answer by this witness would reveal
23 privileged attorney-client communications, and
24 as a result, I am instructing the witness he is
25 not authorized to answer those questions.

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1 MR. STEPHENS: Special Master Cohen,
2 I would ask for the instruction for the witness
3 to answer the question.

4 SPECIAL MASTER COHEN: I'm sorry. I
5 need to find it again.

6 MR. BENNETT: It's at 11:55:26.

7 SPECIAL MASTER COHEN: Thank you.

8 MR. BENNETT: And I think the
9 concern is, it says: Did you have any
10 communications related to a request from the
11 U.S. attorney's office involving the timing of
12 parallel proceedings, that would -- even a yes
13 or no answer would reveal that there had been a
14 request by the U.S. attorney's office involving
15 the timing of parallel proceedings which would
16 implicate attorney-client privileged
17 communications between the U.S. attorney's
18 office and the DEA, so this would be an
19 indirect way of obtaining the attorney-client
20 privileged communications.

21 SPECIAL MASTER COHEN: It is on the
22 edge of attorney-client privileged
23 communication and I'm going to have to fall off
24 the fence and say that the witness does not
25 have to answer the question. I know that you

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1 are trying to ask questions that don't get into
2 it and I respect that and we will try and let
3 you ask those questions, but I also have to
4 protect the privilege.

5 MR. STEPHENS: Thank you, Special
6 Master Cohen.

7 SPECIAL MASTER COHEN: Okay.

8 BY MR. STEPHENS:

9 Q. Mr. Rannazzisi, did the Office of
10 Diversion Control ever delay filing an
11 administrative action while a criminal
12 investigation was ongoing?

13 MR. BENNETT: You are authorized to
14 answer that question yes or no only.

15 THE WITNESS: Yes.

16 BY MR. STEPHENS:

17 Q. Mr. Rannazzisi, did the Office of
18 Diversion Control ever delay in filing a civil
19 action while a criminal investigation was
20 ongoing?

21 MR. BENNETT: You may answer that
22 question yes or no.

23 I will object to foundation because
24 the DEA doesn't actually file civil actions.

25 THE WITNESS: I am not sure about

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1 that.

2 BY MR. STEPHENS:

3 Q. Okay. So let's talk a little bit
4 about administrative actions.

5 One administrative action that the
6 Office of Diversion Control could pursue is an
7 immediate suspension order of a registrant,
8 correct?

9 A. Yes.

10 Q. And an immediate suspension order of
11 a physician who is a registrant immediately
12 suspends that doctor's ability to prescribe
13 prescription opioids, true?

14 A. It prevents the doctor from
15 prescribing any controlled substance.

16 Q. Okay. How long, based on your
17 experience with situations where DEA delayed
18 filing an administrative action while a
19 criminal investigation was ongoing, what was
20 the longest amount of time that DEA held off on
21 filing an administrative action?

22 MS. SINGER: Objection. Foundation.
23 Compound question.

24 MR. BENNETT: Objection. Scope.
25 You can answer.

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1 THE WITNESS: I am just curious
2 about -- well, my question to clarify is, when
3 you say, "delay," what do you mean by "delay?"

4 Do you mean -- well, I am just
5 curious what delay means. How are you using
6 that?

7 BY MR. STEPHENS:

8 Q. In a situation where the Office of
9 Diversion Control was prepared to file an
10 administrative action because its investigation
11 hadn't matured to that point, in a situation
12 where there was a criminal proceeding, I am
13 asking you to identify the longest amount of
14 time DEA held off on filing an administrative
15 action while the criminal investigation was
16 proceeding?

17 MR. BENNETT: Objection.
18 Foundation. Compound. Mischaracterizes prior
19 testimony.

20 THE WITNESS: The answer is, I don't
21 know, you know, the longest amount of time.

22 BY MR. STEPHENS:

23 Q. Can you give me an estimate as to a
24 situation that you remember where DEA, their
25 administrative action had ripened to the point

1 where DEA was ready to proceed and DEA held off
2 pending the completion of a criminal
3 investigation?

4 MR. BENNETT: Objection.

5 MS. SINGER: Objection. Foundation
6 and compound question.

7 MR. BENNETT: Objection.

8 Foundation. Compound. Mischaracterizes prior
9 testimony and scope.

10 You can answer.

11 THE WITNESS: I don't know. I don't
12 know.

13 BY MR. STEPHENS:

14 Q. Can you recall a situation where it
15 was more than two months?

16 MS. SINGER: Objection. Asked and
17 answered.

18 MR. BENNETT: Same objections, and I
19 will join the asked and answered.

20 THE WITNESS: I don't know. I just
21 don't know.

22 BY MR. STEPHENS:

23 Q. Can you remember a situation where
24 it was as long as 12 months?

25 MS. SINGER: Objection. Asked and

1 answered.

2 MR. BENNETT: Same objections.

3 THE WITNESS: I -- again, I don't
4 know. I mean, I get the immediate -- the
5 orders to show cause and I review them. I have
6 no idea when the case was done. All I -- when
7 it's presented to me for review, I just go by
8 what is on the document.

9 BY MR. STEPHENS:

10 Q. Who on your --

11 A. Or the document.

12 Q. I'm sorry, Mr. Rannazzisi. Who on
13 your team at the Office of Diversion Control
14 during your tenure would have had that
15 information?

16 MS. SINGER: Objection. Scope.

17 MR. BENNETT: Objection. Vague.

18 THE WITNESS: The pharmaceutical
19 investigations section, or the exec in charge
20 of handling the pharmaceutical investigations.

21 BY MR. STEPHENS:

22 Q. Okay. And what is the title of the
23 head of the pharmaceutical investigation
24 section, is it a section chief?

25 A. Section chief, yes.

1 Q. Who was the section chief when you
2 left in 2015?

3 MR. BENNETT: Objection. Scope.

4 You can answer.

5 THE WITNESS: They changed over.
6 I'm not -- I think it might have been Barbara
7 Boockholdt or Cathy Gallagher.

8 BY MR. STEPHENS:

9 Q. Okay. Do you recall who was the
10 section chief for the pharmacy --

11 A. I'm sorry, that was pharmaceutical
12 regulatory. Okay. Pharmaceutical
13 investigations was running a different area and
14 so Boockholdt or Gallagher or Carter were in
15 charge of pharmaceutical regulatory
16 investigations at that point in time, and then
17 pharmaceutical investigations section, the
18 other side, that was -- I just don't recall who
19 was running pharmaceutical investigations at
20 that point in time.

21 Q. Okay. Do you recall who ran that
22 section, pharmaceutical investigations section
23 at any point in time from -- during your tenure
24 as deputy assistant administrator from '05 to
25 '15?

MR. BENNETT: Objection. Scope.

You can answer.

THE WITNESS: John Chapinski, Robert Hill, Matt Murphy, I think that pretty much covered it.

BY MR. STEPHENS:

Q. Okay. Mr. Rannazzisi, I would like to transition and ask you some background questions about some of your experience based on other positions you held at DEA during your career.

MR. BENNETT: Counsel, I know we had to step out a couple of times but it is after 12:15. Not sure when you want to take lunch. It sounds like you were going into a new transition area.

MR. STEPHENS: I am going into a new area. If you folks want to break and that's good with the Special Master and the court reporter and the witness, I am fine with that.

MR. BENNETT: I'll leave it up to the witness. I am happy to keep going, I'm happy to take our lunch break now, whatever he prefers.

THE WITNESS: How much time do you

think you have?

MR. STEPHENS: I still have a lot of questions.

THE WITNESS: Okay. Why don't we break then.

THE VIDEOGRAPHER: We are going off the record. This is the end of Media Unit No. 3. The time is 12:13.

(A short recess was taken.)

THE VIDEOGRAPHER: We are going back on the record.

This is the start of Media Unit No.

4.

The time is 1:05.

You may proceed, Counsel.

BY MR. STEPHENS:

Q. Mr. Rannazzisi, good afternoon.

A. Good afternoon.

Q. Earlier today you were asked a few questions about ARCOS, and you had mentioned IMS data.

Do you recall that?

A. Yes.

Q. Are --

A. Yes.

Q. Sir, are you aware whether or not IMS data includes distribution data?

MS. SINGER: Objection. Vague.

THE WITNESS: It's my understanding that IMS data includes data for dispensing from pharmacies.

BY MR. STEPHENS:

Q. Okay. So your understanding is that IMS data is dispensing data; is that fair?

A. Yes.

Q. You had also -- you mentioned a distributor briefing.

Do you recall that?

A. Yes.

Q. Okay. And you had said something to the effect of, "They assured us that they understood."

Do you recall saying that?

MR. BENNETT: Objection. Mischaracterizes past testimony.

Go ahead.

THE WITNESS: The -- yeah. Before they left, they were asked if they understood, and they said yes.

BY MR. STEPHENS:

Q. Okay. Did you, sir, personally attend any distributor briefing with any retail chain pharmacy, including Walmart, Walgreens, Rite Aid, CVS, HBC, Giant Eagle?

A. I personally did not.

Q. Are you aware as to whether or not anyone who worked for you conducted a distributor briefing with any of those retail chain pharmacies?

MR. BENNETT: Objection. Vague.

You can answer.

THE WITNESS: There were meetings between some of those companies and staff at DEA but not in the -- in the -- from the format of the distributor briefing.

BY MR. STEPHENS:

Q. Okay. So no --

A. That I know of anyway.

Q. Right.

A. That I know of anyway.

Q. So just so the record's clear, you're not aware, sir, of any distributor briefing conducted by DEA with the retail chain pharmacies that I've just identified; is that fair?

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MR. BENNETT: Objection. Misstates testimony.

You can answer.

THE WITNESS: I don't -- I -- I don't know personally. It doesn't mean it didn't happen. I just am not aware of any.

BY MR. STEPHENS:

Q. All right. Very well.

Sir, I'd like to ask you some questions about some Title 21 issues and your responsibility and your experience communicating DEA's position on diversion issues to registrants and Congress and your duties and responsibilities in expressing where diversion was occurring when you spoke with those folks. Okay?

A. Okay.

Q. And those tasks would have fallen within the scope of your general duties during your career as deputy assistant administrator; is that fair?

MS. SINGER: Objection. Compound question. Asked and answered.

MR. UTTER: Same objection.

Go ahead.

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THE WITNESS: Speaking to Congress and speaking to the general public was part of my duties as a deputy assist and administrator, yes.

BY MR. STEPHENS:

Q. The prescribers, like manufacturers, distributors and pharmacies, are registrants, true?

A. Yes, sir.

Q. And it's fair to say that the overwhelming majority of prescribing in America during your tenure as deputy assistant administrator was conducted responsibly.

MR. BENNETT: Objection. Vague.

MS. SINGER: Objection. Foundation.

MR. BENNETT: Scope.

MR. UTTER: Same objection.

Go ahead.

THE WITNESS: I believe that the vast majority of practitioners are doing exactly what they were supposed to be doing, yes.

BY MR. STEPHENS:

Q. Would you also agree that good doctors and pharmacists were often the first to

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notify DEA about suspected diverters?

MS. SINGER: Objection. Vague. Compound question. Outside of the scope.

MR. BENNETT: Objection. Vague. Scope.

MR. UTTER: Go ahead.

MR. BENNETT: You can answer.

THE WITNESS: I don't know if it's the first. I -- we -- we had intelligence come in from physicians. We've had intelligence come in from pharmacies as well as regulatory boards. But I don't know if it's the first -- you know, the first contact with that particular registrant that they were reporting.

BY MR. STEPHENS:

Q. Okay. Mr. Rannazzisi, what I'd like to do is share with you a copy of some congressional testimony you provided on July 12, 2007. Okay?

A. Okay.

MR. STEPHENS: And, Bonnie, if you could please mark this as the next in order.

(Deposition Exhibit 7 was marked for identification.)

BY MR. STEPHENS:

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Q. Mr. Rannazzisi, I direct you to Page 218 of the transcript. Or let -- let's start with Page 217.

Are you with me on Page 217?

A. Yes.

Q. Okay. And just to identify the document, Mr. Rannazzisi, it's dated July 12. These are Questions For the Hearing Record for Joseph T. Rannazzisi, Deputy Assistant Administrator, Office of Diversion Control.

Do you see that?

A. Yes.

Q. And can you describe for the record, when you would get these -- these questions you would consider them in providing written responses back that would get inserted into the congressional record?

Is that fair and accurate?

A. Yes.

MS. SINGER: Objection. Vague.

BY MR. STEPHENS:

Q. Okay. Sir, what I'd -- I'd like to do is direct you to the second question, which is on the bottom of 217 and will go to the top of 2 -- Page 218. And in your response, I'm

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1 going to direct you to the very first couple of
2 sentences in the response.

3 And, sir, just let me know when
4 you've had an opportunity to read that.

5 Have you had an opportunity to read
6 that paragraph, Mr. Rannazzisi?

7 A. I just want to read the --

8 Q. Sure.

9 A. -- whole response.

10 Okay.

11 Q. All right. So, Mr. Rannazzisi, the
12 question framed by Congress, No. 2 there,
13 states, quote: During the hearing, testimony
14 was offered that indicated investigations of
15 pain management doctors and other doctors by
16 DEA have caused concern that physicians who
17 practice in this area of medicine are being
18 targeted despite the service they provide to a
19 number of pain sufferers. Does DEA believe this
20 characterization is correct? And what is the
21 process DEA uses to identify and investigate
22 doctors whose practices dispense large
23 quantities of opioids and other pain relievers?

24 Sir, did I --

25 MS. SINGER: Objection. Compound

1 question.

2 BY MR. STEPHENS:

3 Q. Sir, did I read that question
4 accurately?

5 MS. SINGER: Objection. Vague and
6 compound.

7 THE WITNESS: Yes.

8 BY MR. STEPHENS:

9 Q. Okay. And then, sir, your
10 response -- and I'm quoting from the second
11 sentence under response -- says, quote: The
12 overwhelming majority of prescribing done by
13 physicians in America is conducted responsibly.
14 Often it is these doctors and pharmacists who
15 dispense the medication who are the first to
16 alert law enforce to potential prescription
17 problems.

18 Do you see that?

19 A. Yes.

20 Q. Did I read that accurately?

21 A. Yes.

22 Q. Is that your submission back to the
23 committee on the judiciary of the House of
24 Representatives for this hearing on July 12,
25 2007?

1 MR. BENNETT: Objection. Form.
2 Objection. It's incomplete reading of his
3 response to the question. And so I would
4 object under Rule 106.

5 THE WITNESS: First of all, this is
6 not my response. It's the Department of
7 Justice and the administration's response. And
8 everything must be vetted through them.

9 So regardless of what my feelings
10 were at the time, if the department or the --
11 the administration, through the vetting
12 process, felt that that's what they wanted to
13 put in, that's what was put in.

14 BY MR. STEPHENS:

15 Q. So then, sir, let me ask you this
16 question: As of July 12, 2007, did you agree
17 with the statement that the overwhelming
18 majority of prescribing done by physicians in
19 America is conducted responsibly?

20 Did you agree with that?

21 MR. BENNETT: Objection. Scope.

22 You're not authorized to give
23 personal opinions regarding nonpublic facts or
24 information you acquired in the performance of
25 your duties. You are not -- not -- you are

1 also not authorized to disclose any information
2 regarding internal deliberative process or
3 recommendations that you made.

4 To the extent that you have a
5 personal opinion that it does not rely on
6 internal deliberative process or nonpublic
7 factual information, you may give it on behalf
8 of yourself personally but are not speaking on
9 behalf of DEA.

10 THE WITNESS: Could -- could you
11 repeat the question one more time.

12 BY MR. STEPHENS:

13 Q. Yes.

14 As of July 12, 2007, did you agree
15 with the statement that the overwhelming
16 majority of prescribing done by physicians in
17 America is conducted responsibly?

18 MR. BENNETT: Same instruction.

19 THE WITNESS: I believe that the
20 vast majority of physicians are prescribing
21 responsibly, yes.

22 BY MR. STEPHENS:

23 Q. Do you also agree with the statement
24 in the next sentence, Mr. Rannazzisi, that
25 often is it these doctors and pharmacists who

1 dispense the medication who are the first to
2 alert law enforcement to potential prescription
3 problems?

4 MR. BENNETT: Objection. Same
5 instruction.

6 THE WITNESS: If you're talking
7 about prescription fraud, fraudulent
8 prescriptions, for instance, if a -- a
9 pharmacist receives a prescription and he calls
10 the doctor and the doctor says, "I did not
11 write that prescription," and they make a call
12 to the police, yes. That -- I would agree.
13 And I think that's what they were getting at at
14 the time.

15 BY MR. STEPHENS:

16 Q. So you don't disagree with the
17 statement -- with the context you just
18 provided; is that fair, Mr. Rannazzisi?

19 A. If the context is --

20 MS. SINGER: Objection.

21 THE WITNESS: Oh.

22 MS. SINGER: Mischaracterizes the
23 witness's testimony.

24 THE WITNESS: If we're talking about
25 a prescription fraud case where someone is

1 passing bad paper to a pharmacist, and the
2 pharmacist calls the doctor, generally the
3 pharmacist or the doctor is going to call and
4 say, "I just got a bad script. What do you
5 want me to do with it?" And it either goes to
6 law enforcement, the state board, or DEA.

7 So yes, in that situation,
8 absolutely.

9 BY MR. STEPHENS:

10 Q. Okay. Mr. Rannazzisi, I'm finished
11 with that exhibit there, sir.

12 In other testimony that you provided
13 to Congress, you testified about the -- the
14 percentage of prescribers you thought were
15 overprescribed.

16 Do you recall that?

17 MR. UTTER: Object to form.

18 Go ahead.

19 THE WITNESS: I -- I've done a lot
20 of testimony to Congress. Do -- if -- if you
21 have a transcript or...

22 MR. STEPHENS: Yes, sir. I do.

23 And if I could please have that
24 marked as the next in order.

25 (Deposition Exhibit 8 was marked for

1 identification.)

2 THE WITNESS: Thank you.

3 BY MR. STEPHENS:

4 Q. And here, Mr. Rannazzisi, I'm going
5 to direct you to Page 76.

6 A. May -- may I go ahead and read it?

7 Q. Excuse me?

8 A. May I go ahead and read it.

9 Q. Yes. And I'll -- I'll point you to
10 it, Mr. Rannazzisi, just so you have it.

11 A. Sure.

12 Q. Towards the bottom of the page,
13 there's a statement by Mr. Burgess. And then,
14 in the second-to-last paragraph, you have a
15 response. It is that question and answer that
16 I'll direct your attention to, sir.

17 A. Okay.

18 Q. From -- Mr. Burgess says, quote --
19 this is on Page 76. This is hearing dated
20 April 29, 2014, called "Examining the Growing
21 Problems of Prescription Drug and Heroin Abuse
22 Before the Subcommittee on Oversight and
23 Investigations."

24 And, sir, now picking up on the
25 bottom of Page 76, Mr. Burgess says the

1 following, quote: I don't want to put words in
2 his mouth, but Mr. Rannazzisi seemed to imply
3 that we are overprescribing. Is that a fair
4 assessment of your testimony?"

5 Then, sir, it indicates that you
6 responded, quote: I think that, if you are
7 talking about 99.5 percent of the prescribers,
8 no, they are not overprescribing. But our
9 focus is in rogue pain clinics and rogue
10 doctors who are overprescribing.

11 Sir, do you see that?

12 A. Yes.

13 Q. Did I read that accurately?

14 A. Yes.

15 Q. Was that a statement that you made
16 in front of the subcommittee on oversight on
17 April 29, 2014?

18 MR. BENNETT: Objection.

19 THE WITNESS: Yes. Except -- except
20 you didn't include the last line, which it
21 says, actually, they're prescribing -- if
22 they're -- they are prescribing illegally.
23 They are not overprescribing; they're illegally
24 prescribing.

25 BY MR. STEPHENS:

Q. Right.

And the -- Mr. Rannazzisi, who you're talk about there prescribing illegally, that's the one half of 1 percent that was drawing your focus at rogue pain clinic and their rogue doctors; is that fair?

MR. BENNETT: Objection. Form.

THE WITNESS: Yes. I would say so, yes.

BY MR. STEPHENS:

Q. Okay. So --

MS. SINGER: We'll move to lodge a Rule 106 objection.

Mr. Stephens has made the point that this was a small fraction. But I think you have to read on in this testimony for the full context.

BY MR. STEPHENS:

Q. So, Mr. Rannazzisi, it was your testimony that 99.5 percent of prescribers were not overprescribing, true?

MR. BENNETT: Objection. Form.

THE WITNESS: It -- it was my testimony in this context we were talking about -- and I think later on I say that that

small percentage is doing a huge amount of harm.

MS. MAINIGI: Special Master Cohen, can I just lodge my own objection to continued coaching of this witness and this time in the guise of a Rule 106 objection.

MS. SINGER: It was a legitimate 106 objection if you read on in the record here.

BY MR. STEPHENS:

Q. So, Mr. Rannazzisi, if I could, I will ask you --

MR. BENNETT: Wait a second. The witness I don't think got a chance to finish his answer when he was interrupted by counsel.

MS. MAINIGI: I'm sorry. I thought he was done.

MR. BENNETT: Maybe I misunderstood it, but I thought he was still answering the question.

SPECIAL MASTER COHEN: I don't think so.

MS. MAINIGI: I thought he was.

MR. BENNETT: Mr. Rannazzisi, do you need to complete your answer to the last question?

THE WITNESS: No, that's fine.

MS. MAINIGI: Sorry.

BY MR. STEPHENS:

Q. Mr. Rannazzisi, are you good?

A. Yes.

Q. Can I move on to my next question, sir?

A. Yes.

Q. All right. Is it fair to say that a prescription for a controlled substance issued for a legitimate medical purpose by a registered doctor in the usual course of her professional practice is not diversion?

MS. SINGER: Objection. Vague. Compound question.

MR. BENNETT: Objection. Scope.

THE WITNESS: If the -- if the doctor has made a determination, a medical determination that that patient needs that controlled substance to treat a specific ailment and the prescription is written appropriately per the requirements in the C.F.R. and the CSA, yes, then I would not think that would be diversion.

BY MR. STEPHENS:

Q. Okay. And if the pharmacy filled that same prescription, that also is not diversion, correct?

MR. BENNETT: Objection. Scope. Incomplete hypothetical.

THE WITNESS: I can only go back to the regulations. If the pharmacist, who has a corresponding responsibility to ensure that a prescription is effective and valid, if a pharmacist fills the prescription based on his corresponding responsibility, his red flags analysis to ensure that that prescription is effective and valid, yes, I don't think that would be diversion as long as he's resolved the red flags that are presented with the prescription.

BY MR. STEPHENS:

Q. Okay. Now, sir, in your testimony, you had mentioned that DEA's focus was on rogue pain clinics and rogue doctors, correct?

A. Yes.

Q. Those rogue doctors often worked out of rogue pain clinics; is that fair?

MS. SINGER: Objection. Vague.

MR. UTTER: Object to scope.

MR. STEPHENS: I will withdraw the question.

BY MR. STEPHENS:

Q. Sir, is it fair that DEA focused its attention in the 2005 to, say, 2009 era on rogue Internet pharmacies?

MR. BENNETT: Objection. Scope. You can answer.

THE WITNESS: I would say the -- up until at least 2008, after the Ryan Hate Act was passed, it pretty much shut down most of the Internet pharmacies and there was a switch to rogue pain clinics. There has always been rogue pain clinics but the rogue pain clinics got -- increased in numbers quite a bit right after Ryan Hate was passed.

BY MR. STEPHENS:

Q. Okay. So for general purposes, it's fair that you were focusing your attention on rogue Internet pharmacies which were a significant problem in the 2005 to 2008 era, and then in that era approximately -- that approximate period of time, 2008, 2009, legislation passed and then after the legislation passed, DEA takes enforcement

against some of the rogue Internet pharmacies, you started to focus more of your attention on rogue pain clinics; is that fair?

MS. SINGER: Objection. Compound question.

MR. BENNETT: Objection. Compound question and vague.

THE WITNESS: Actually, no. We had taken -- investigated and taken action against rogue Internet pharmacies before Ryan Hate was passed. Actually, I think Ryan Hate was passed because of all the inactivity we had done in the supply chain related to Internet pharmacies.

And to clarify, while we had many Internet pharmacy cases, we were also doing rogue doctors, rogue pharmacies and rogue pain clinics at that point in time, too, so we tried to focus on where the threat was and at that point in time, we had threats but it just seemed that the vast majority of the cases were Internet-based. However, there were still rogue pain clinics, rogue pharmacies and rogue doctors that were operating independently in the neighborhoods and communities at that time.

BY MR. STEPHENS:

Q. Let me say it this way, and just for your benefit, Mr. Rannazzisi, I am just trying to understand what the primary focus was in 2005 when you start to after the -- immediately after the passage of the Ryan Hate Act, and then if DEA shifted its focus a bit, what it shifted its focus to, so let me -- do you understand that that's -- I am asking a couple of questions on that, okay?

MR. BENNETT: Objection. Form.

MR. STEPHENS: Just trying to lay a predicate for him, James.

BY MR. STEPHENS:

Q. Now, in the 2005 to 2008 era leading up to the Ryan Hate Act, DEA was focused on rogue Internet pharmacies, true?

MR. BENNETT: Objection. Asked and answered.

MR. UTTER: Objection.

MR. BENNETT: Form.

MR. UTTER: Same objection, sorry.

THE WITNESS: We were conducting Internet pharmacy investigations because there were quite a few of them, but we were also

doing investigations in other areas of diversion, including, you know, rogue pain clinics, rogue doctors and rogue pharmacies that were diverting.

BY MR. STEPHENS:

Q. Okay. Is it safe to say that you focused a greater percentage of your energy on rogue pain clinics after the Ryan Hate Act is passed in 2008 and after DEA goes through a series of enforcement actions against rogue Internet pharmacies; isn't that fair?

MR. BENNETT: Objection. Vague. Compound.

MR. UTTER: Objection. Same objections.

THE WITNESS: Our resources shifted to rogue pain clinics because the Internet pharmacy cases pretty much went away. There was no more domestic brick and mortar pharmacies that were fulfilling Internet orders because Ryan Hate pretty much eliminated them, so the resources were shifted over to rogue pain clinics.

BY MR. STEPHENS:

Q. Mr. Rannazzisi, would you agree that

1 the vast majority of registrants complied with
2 the statutory and regulatory obligations under
3 the Controlled Substances Act?

4 MS. SINGER: Objection. Vague and
5 scope.

6 MR. BENNETT: Objection. Calls for
7 speculation. Scope.

8 MR. UTTER: Same objections.

9 Go ahead.

10 THE WITNESS: Are you talking about
11 particular groups of registrants or classes of
12 registrants or just the registrants in general,
13 because the doctors make up 1.3 million of the
14 registrant population and more now, so I said a
15 vast majority of doctors are actually acting
16 responsibly.

17 So if you are taking that into
18 account, then yes, because the vast majority of
19 the registrant population are physicians.

20 BY MR. STEPHENS:

21 Q. So you would agree with the
22 statement that says the vast majority of DEA
23 registrants adhere to their statutory and
24 regulatory obligations under the CSA, true?

25 MR. BENNETT: Objection. Asked and

1 answered.

2 MR. UTTER: Same objection.

3 Go ahead. You can answer again.

4 THE WITNESS: Again, yes, because
5 the vast majority of the registrant population
6 are physicians and as I said previously, most
7 of the physicians, a vast majority of the
8 physicians are operating responsibly.

9 BY MR. STEPHENS:

10 Q. Sir, you had -- in response to some
11 questions from my colleague earlier this
12 morning, there were some questions about
13 diversion and diversion occurring from medicine
14 cabinet involving family and friends.

15 Do you see that -- or do you
16 remember that, I should say.

17 A. I remember that, yes.

18 Q. All right. Is it fair to say that
19 the most -- that the most common method in
20 which controlled substance prescriptions are
21 diverted may be through family and friends?

22 MS. SINGER: Objection. Vague.
23 Objection. Scope.

24 MR. BENNETT: I would join in both
25 of those objections. Also object, incomplete

1 hypothetical and calls for speculation.

2 MR. UTTER: Same objections.

3 Go ahead.

4 THE WITNESS: That if you are basing
5 that on a survey that was done, yes, but that's
6 not what we were seeing in the Drug Enforcement
7 Administration when we were out there.

8 BY MR. STEPHENS:

9 Q. Did you ever inform the Congress
10 that as DEA increased its understanding of
11 where abusers acquired prescription drugs, that
12 preliminary data suggested that the most common
13 method in which controlled substance
14 prescriptions are diverted may be through
15 family and friends?

16 A. That was an administration opinion
17 and again, they were talking about the trading
18 of specific pills. Somebody got a pill and
19 handed it off, but as far as volume, no. I
20 mean, that is not what we were seeing.

21 Q. DEA made that statement from time to
22 time about the most common form of diversion
23 being through family and friends, right?

24 A. That was the administration --

25 MS. SINGER: Objection. Foundation.

1 MR. BENNETT: I will join the
2 foundation objection. Objection. Scope.

3 MR. STEPHENS: I will re-ask the
4 question.

5 BY MR. STEPHENS:

6 Q. Mr. Rannazzisi, you are aware that
7 DEA made the statement during your time as
8 deputy assistant administrator, that the
9 preliminary data suggested that the most common
10 method in which controlled substance
11 prescriptions are diverted may be through
12 family and friends?

13 MS. SINGER: Objection. Foundation.

14 MR. BENNETT: Objection. Vague.

15 THE WITNESS: Again, that was the
16 administration's position. DEA could only
17 report what the administration's position is at
18 the time. We are not autonomous.

19 BY MR. STEPHENS:

20 Q. Isn't -- by administration, you mean
21 the Drug Enforcement Administration or do you
22 mean the administration of the White House, the
23 executive branch?

24 A. The executive branch.

25 Q. Okay. So if I understand you

1 correctly, there would have been times where --
 2 and stop me if this is not accurate, were there
 3 times when you were providing information to
 4 Congress under your name where you were making
 5 statements that you did not agree with?

6 MS. SINGER: Objection. Vague.

7 MR. BENNETT: Objection. Scope.

8 You are not authorized to disclose
 9 any information regarding the internal
 10 deliberative process or recommendation that you
 11 made with the Department of Justice. You also
 12 are not authorized to give opinions regarding
 13 nonpublic facts or information you acquired in
 14 the performance of your official duties and you
 15 are not authorized to disclose any nonpublic
 16 recommendations you made or you are aware of
 17 concerning any proposed agency action or
 18 position.

19 To the extent that you can offer an
 20 opinion that involves public facts or
 21 information you acquired outside of the
 22 performance of your official duties, you may
 23 give your personal opinion, but you are not
 24 speaking on behalf of the DEA.

25 THE WITNESS: So all this occurred

1 when I was working with DEA in my official
 2 capacity as a deputy assistant administrator
 3 and while I was the witness that testifies, the
 4 message comes from the Department of Justice
 5 and the White House.

6 You are always told that you are an
 7 administration witness, so based on that, that
 8 was the administration's position and, you
 9 know, I took the position that if that's the
 10 administration's position, then that's what it
 11 would be.

12 BY MR. STEPHENS:

13 Q. Okay. Mr. Rannazzisi, with --
 14 someone with a 25 year-plus career with DEA,
 15 was it your understanding when you were
 16 providing information through to Congress,
 17 either through testimony or through the written
 18 record, that the accuracy of that information
 19 was subject to 18 U.S.C. 1001?

20 MR. BENNETT: Objection. Calls for
 21 a legal conclusion. Scope.

22 The witness is not authorized to
 23 discuss his opinion regarding what the law says
 24 or does not say. It is also argumentative.

25 The witness can answer if he has an

1 answer in his personal capacity, but not on
 2 behalf of the DEA.

3 THE WITNESS: That information was
 4 based on a survey, the National Survey on Drug
 5 Use and Health, and yes, that's what the survey
 6 said.

7 BY MR. STEPHENS:

8 Q. Okay. But my question is a little
 9 bit different, Mr. Rannazzisi, and it's --
 10 whether it was your understanding as deputy
 11 assistant administrator from 2005 to 2015, and
 12 as someone who's testified repeatedly in front
 13 of Congress, that your testimony was subject to
 14 Title 18 U.S.C. 1001 which requires an honest
 15 response to information provided through law
 16 enforcement or to Congress?

17 MS. SINGER: Objection.

18 MR. BENNETT: Objection.

19 Argumentative. Calls for a legal conclusion.
 20 Outside the scope of his authorization.

21 MS. SINGER: Counsel is also
 22 testifying.

23 MR. UTTER: Object to form.

24 Go ahead.

25 THE WITNESS: Again, that was the

1 administration's position based on the
 2 information that they had, as a witness for the
 3 administration, and I relay and testified to
 4 what the administration's position is.

5 BY MR. STEPHENS:

6 Q. Okay. So my question is not on that
 7 specific fact now. My question relates to what
 8 your understanding was of your obligations and
 9 responsibilities when you are testifying in
 10 front of Congress, okay?

11 MR. UTTER: I'm going to object to
 12 your characterization as a fact.

13 Go ahead, you can answer.

14 MR. BENNETT: And I will also
 15 object. Asked and answered. This is the third
 16 time you've asked this question where the
 17 witness has answered it each time.

18 BY MR. STEPHENS:

19 Q. Just yes or no, Mr. Rannazzisi. Was
 20 it your understanding that the information that
 21 you provided to Congress when you testified in
 22 front of Congress was subject to Title 18
 23 U.S.C. 1001?

24 MR. BENNETT: Objection. Asked and
 25 answered. Argumentative.

1 MS. SINGER: Objection. Calls for a
2 legal conclusion.

3 THE WITNESS: The administration's
4 position and the fed testimony through the
5 administration, that was their position. It
6 was based on a survey and I presented the
7 administration's position. I was not
8 testifying on behalf of Joe Rannazzisi, I was
9 testifying on behalf of the administration in
10 2007.

11 MR. STEPHENS: Special Master Cohen,
12 at this point, I would ask --

13 SPECIAL MASTER COHEN: You guys are
14 kind of talking past each other.

15 MR. STEPHENS: I tried to set that
16 up with a predicate to my last question.

17 SPECIAL MASTER COHEN: You guys are
18 kind of talking past each other. The last
19 question you asked was a yes or no question for
20 your understanding, and I think you can answer
21 it with yes or no for your understanding.

22 You keep kind of taking that
23 question he is asking and applying it to
24 something else, so I want you to kind of listen
25 to the question as it is asked, and see if you

1 can answer with a yes or no, again, regarding
2 your understanding.

3 Let me just add one other thing. If
4 there is a way that you can ask a question
5 without reference to the statute, maybe you
6 can't, then that might help.

7 BY MR. STEPHENS:

8 Q. Mr. Rannazzisi, was it your
9 understanding that when you testified in front
10 of Congress, you were testifying under oath and
11 needed to tell the truth?

12 A. Yes.

13 Q. So I would like to go back to the
14 start of your tenure, Mr. Rannazzisi, in 2005
15 and 2006. Okay?

16 A. Yes.

17 Q. Now we had talked about rogue
18 Internet pharmacies a few minutes ago, correct?

19 A. Yes.

20 Q. Would you agree that not all
21 Internet pharmacies were rogue Internet
22 pharmacies who were diverting opioids?

23 A. No. In fact, I can't think of an
24 Internet pharmacy that was operating at that
25 point in time that wasn't rogue.

1 MR. STEPHENS: If I could ask, if
2 you could mark this as next in order, Bonnie.
3 Thank you.

4 (Deposition Exhibit 9 was marked for
5 identification.)

6 BY MR. STEPHENS:

7 Q. So this has been marked as Exhibit
8 9. It is a current transcript from May 16,
9 2007, entitled: "Rogue Online Pharmacies, the
10 growing problem with Internet drug trafficking,
11 a hearing before the Committee of the Judiciary
12 of the United States Senate."

13 And, sir, I would direct your
14 attention to Page 52.

15 So, Mr. Rannazzisi, on Page 52, it's
16 entitled: "Questions for the hearing record
17 for Joseph Rannazzisi deputy assistant
18 administrator, office of diversion and
19 control."

20 And then the first question states:
21 "At the hearing, witnesses provided testimony
22 about how easy it is for youth and others to
23 obtain prescription drugs illegally on the
24 Internet."

25 And it's then 1 Sub A:

1 "Approximately how many websites currently
2 offer to sell controlled substances illegally
3 over the Internet?"

4 Do you see that, sir?

5 A. Yes.

6 Q. Okay. Now I'm going to direct your
7 attention to the -- in the very middle of the
8 response, and there is a sentence there that
9 states: "It should be noted that there are
10 legitimate pharmacies that provide controlled
11 substances via the Internet and operate daily
12 within the boundaries of the law."

13 Do you see that?

14 MR. UTTER: Take your time to read
15 the document so you are familiar with it.

16 THE WITNESS: Okay.

17 BY MR. STEPHENS:

18 Q. So my question, sir, is: Did you
19 inform the United States Senate on May 16,
20 2007, that it was the administration's position
21 that it should be noted that there are
22 legitimate pharmacies that provide controlled
23 substances via the Internet and operate daily
24 within the boundaries of the law?

25 A. Yes, but there is a difference

1 between the pharmacies we were talking about
2 here and what we consider a rogue Internet
3 pharmacy.

4 Q. Right. My point is simply this, Mr.
5 Rannazzisi.

6 There are Internet pharmacies and
7 then, among those Internet pharmacies, there is
8 a subset, however large it may be, that are
9 rogue Internet pharmacies; is that fair?

10 MR. BENNETT: Objection. Vague.

11 THE WITNESS: No. Because in -- the
12 Internet pharmacies that are legal that you're
13 talking about are generally pharmacies where
14 you could go online and ask the pharmacist via
15 the Internet for a refill on your prescription.
16 That is an Internet pharmacy.

17 The pharmacies that I am dealing
18 with in the rogue context are pharmacies that
19 had a physician that was sitting in New Jersey,
20 a pharmacist that was sitting in Iowa and in
21 that facilitation center that was -- the
22 transaction was being conducted through a
23 survey or a patient questionnaire for cash with
24 no bona fide doctor-patient relationship, no
25 corresponding responsibility review by the

1 pharmacist, the doctor never saw the patient
2 and that's rogue.

3 That's -- I think the legal term is
4 a conspiracy, and that's what we were talking
5 about. We were not talking about the pharmacy
6 that would be accessed by a patient who had
7 already turned in their prescription and
8 they're just looking for a refill.

9 BY MR. STEPHENS:

10 Q. Okay. So then let's focus on these
11 rogue Internet pharmacies that you just
12 described. Okay?

13 The rogue Internet pharmacies that
14 were diverting controlled substances often had
15 a ratio where they distributed 95 percent
16 controlled substances against 4 percent
17 noncontrolled. Fair?

18 MS. SINGER: Objection. Foundation.

19 MR. BENNETT: Objection. Vague.

20 MR. UTTER: Same objections.

21 Go ahead.

22 THE WITNESS: I -- 95 percent in
23 some aspects, they were generally high. I
24 think we have seen rogue Internet pharmacies go
25 60, 70 percent up to 90, 95 percent depending

1 on the pharmacy and what their business was.

2 BY MR. STEPHENS:

3 Q. Did you view a ratio of 95 percent
4 controlled substances versus 5 percent
5 noncontrolled substances as a possible
6 indication that the Internet pharmacy was
7 diverting?

8 MS. SINGER: Objection. Calls for
9 speculation. Incomplete hypothetical.

10 MR. BENNETT: Objection. Vague as
11 to time.

12 BY MR. STEPHENS:

13 Q. During your tenure as deputy
14 assistant administrator, sir.

15 A. High volume, high ratio, controlled
16 substance to noncontrolled substance is an
17 indicator of a potential problem, yes.

18 Q. And these rogue Internet pharmacies
19 that you dealt with, they were not full range
20 pharmacies, like a retail chain pharmacy, like
21 a Walmart or a CVS or Walgreens or Rite Aid or
22 an HBC Giant Eagle, true?

23 MS. SINGER: Objection. Compound
24 question.

25 MR. BENNETT: Objection. Compound

1 and vague.

2 THE WITNESS: I don't remember -- I
3 know the vast majority of the pharmacies, the
4 brick and mortar pharmacies that we took action
5 against, were not independent -- they were
6 independent. They were not chain drug stores.

7 However, I can't say that every --
8 every case we had was an independent. I just
9 don't remember but I am pretty sure that the
10 vast majority were independent pharmacies.

11 BY MR. STEPHENS:

12 Q. Sir, during your career as deputy
13 assistant administrator, you gave presentations
14 where you used slide decks that described rogue
15 Internet pharmacies; is that fair?

16 A. Yes.

17 Q. I would like to show you one of
18 those.

19 (Deposition Exhibit 10 was marked
20 for identification.)

21 BY MR. STEPHENS:

22 Q. Sir, I would direct your attention
23 to Slide 50.

24 MR. BENNETT: Counsel, may I ask,
25 where this was produced from? It doesn't look

1 like a DEA document so I am just curious.
2 There is no Bates number. There's no document
3 number on it.

4 MR. STEPHENS: Let me suggest this,
5 James, I will move on. I will come back to
6 this and answer that question for you. How's
7 that?

8 MR. BENNETT: That's fine. Thank
9 you.

10 BY MR. STEPHENS:

11 Q. Mr. Rannazzisi, let me ask you this:
12 Do you recall giving presentations where, in
13 your description of what a rogue pharmacy was,
14 you told people that they were not chain
15 pharmacies?

16 MR. UTTER: Don't look -- he is not
17 making a reference to the exhibit, so you are
18 not confused. He is asking a question
19 independent of the exhibit.

20 THE WITNESS: If I was reporting
21 what the majority of the pharmacies were, I
22 would say yes, a vast majority of the
23 pharmacies involved in rogue Internet sales are
24 independent pharmacies.

25 BY MR. STEPHENS:

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1 Q. And you agree that most, if not all,
2 of the Internet pharmacies operating
3 domestically between 2005 and 2009 were
4 independently owned, fair?

5 MS. SINGER: Objection. Scope.
6 Foundation.

7 MR. BENNETT: Objection. Scope.
8 Calls for speculation.

9 THE WITNESS: I'm not sure. I can
10 tell you the vast majority were independent
11 pharmacies, but I just -- I just don't remember
12 if there was a chain involved in one of the
13 Internet cases or not.

14 MR. STEPHENS: If we could mark this
15 as the next in order, Bonnie.

16 (Deposition Exhibit 11 was marked
17 for identification.)

18 BY MR. STEPHENS:

19 Q. Mr. Rannazzisi, I'm going to direct
20 you to Page 2006.

21 MR. STEPHENS: And for the record,
22 what has been marked as Deposition Exhibit No.
23 11 is hearing testimony from March 1, 2012,
24 entitled: "Prescription Drug Diversion:
25 Combating the Scourge, a hearing before the

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1 Subcommittee of Commerce, Manufacturing and
2 Trade, the Committee on Energy and Commerce."

3 BY MR. STEPHENS:

4 Q. And I would direct your attention to
5 Page 206.

6 Mr. Rannazzisi, I am directing your
7 attention to Question 10 and the last sentence
8 of the first paragraph of the response.

9 A. The paragraph that starts: "As
10 previously stated?"

11 Q. No, it's two sentences just up above
12 it. I will read it for the record. Mr.
13 Rannazzisi, take your time reading it.

14 The sentences state: "For example,
15 between 2005 and 2009, many DEA diversion
16 investigations were initiated against rogue
17 Internet pharmacies. The results of those
18 investigations revealed that most, if not all,
19 of the domestic-based Internet pharmacies were
20 independently-owned pharmacies."

21 Do you see that?

22 A. Yes.

23 Q. My question, sir, is: You provided
24 on behalf of the Drug Enforcement
25 Administration a response back to Congress

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1 which indicated that the results of DEA's
2 diversion investigations of rogue Internet
3 pharmacies revealed that most, if not all, of
4 the domestic-based Internet pharmacies were
5 independently owned, true?

6 A. Yes, with the qualification that
7 most, if not all.

8 Q. Correct. Now Walmart, CVS, Rite
9 Aid, Walgreens, HBC Giant Eagle are all chain
10 pharmacies, correct?

11 MS. SINGER: Objection. Scope.

12 THE WITNESS: Yes, that's correct.

13 BY MR. STEPHENS:

14 Q. Okay. Mr. Rannazzisi, you mentioned
15 in some of your prior testimony with me after
16 lunch, the Ryan Hate Act in 2008, right?

17 A. Yes.

18 Q. And the Ryan Hate Act was
19 legislation that was focused on trying to help
20 combat rogue Internet pharmacies, fair?

21 A. Yes.

22 Q. And after the passage of the act, I
23 believe you mentioned DEA got traction in --
24 from the investigation enforcement actions
25 against rogue Internet pharmacies and then

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1 rogue pain clinics began to become more of an
2 issue and you started to increase
3 investigations into rogue pain clinics?

4 MS. SINGER: Objection. Compound
5 question.

6 MR. BENNETT: Objection.
7 Mischaracterizes testimony.

8 MR. UTTER: Go ahead.

9 THE WITNESS: We -- once the rogue
10 Internet pharmacy -- the domestic brick and
11 mortar pharmacies involved in those were shut
12 down, we started moving resources towards the
13 rogue pain clinics.

14 BY MR. STEPHENS:

15 Q. Okay. Would you agree that not
16 every pain clinic was a rogue pain clinic?

17 MR. BENNETT: Objection. Vague.

18 THE WITNESS: I would agree that
19 there are pain clinics out there that are truly
20 pain clinics, yes.

21 BY MR. STEPHENS:

22 Q. And just for our terminology, Mr.
23 Rannazzisi, when you use the word "rogue," like
24 a rogue pain clinic or a rogue Internet
25 pharmacy, you are communicating that that is an

1 Internet pharmacy or pain clinic that you think
2 is diverting; is that fair?

3 A. They are operating illegally.

4 Q. Now, the rogue pain clinics or some
5 of the rogue pain clinics in the 2008, 2009
6 era, both prescribe and supply oxycodone to
7 their patients at the rogue pain clinic?

8 MR. BENNETT: Objection. Vague.

9 THE WITNESS: Some of them did, yes.

10 BY MR. STEPHENS:

11 Q. And as to those, they were not
12 sending patients to a pharmacy to fill a
13 prescription. They were doing the supplying
14 right there at the pain clinic, correct?

15 MS. SINGER: Objection. Vague.

16 MR. BENNETT: Same.

17 THE WITNESS: In some cases, the
18 clinics were dispensing medication, yes.

19 BY MR. STEPHENS:

20 Q. All right. And in response to that,
21 some states passed legislation to require that
22 the prescriptions of controlled substances be
23 filled at a pharmacy, not at a pain clinic?

24 MS. SINGER: Objection. Foundation.
25 Beyond the scope of this witness's expertise.

1 MR. BENNETT: I will join both as
2 objection to foundation and scope.

3 MR. UTTER: Same objections.

4 Go ahead.

5 THE WITNESS: I don't know about all
6 states, but for instance, Florida did pass two
7 pieces of legislation. First, the 72 hour rule
8 and then they completely eliminated the
9 dispensing of any controlled substance.

10 BY MR. STEPHENS:

11 Q. Okay. And then in response to that
12 legislation, some of the operators of these
13 rogue pain clinics opened up straw pharmacies
14 that were actually controlled by the rogue pain
15 clinic?

16 MS. SINGER: Objection. Compound
17 question again. Beyond the scope of this
18 witness's expertise as a response.

19 MR. BENNETT: Objection. Scope.
20 Objection. Vague.

21 THE WITNESS: We -- there were
22 instances where rogue clinics purchased
23 pharmacies and started dispensing
24 prescriptions, and then having the pharmacists
25 dispense the medication.

1 BY MR. STEPHENS:

2 Q. Mr. Rannazzisi, have you ever used
3 the term or are you familiar with the term, "a
4 straw purchase?"

5 A. Yes.

6 Q. Okay. Can you please describe what
7 a straw purchase of a pharmacy would be in this
8 scenario?

9 A. The owner of the clinic would
10 basically pay money for an individual to act as
11 the purchaser of the pharmacy so it doesn't
12 draw attention to the clinic, so you would have
13 -- we got to see all different types of people
14 in Florida that were trying to apply for
15 pharmacy licenses at that point in time, that
16 were not medical -- didn't have a background in
17 medicine.

18 Q. Okay. And some of these straw
19 pharmacies did get licensed and registered for
20 a period of time by DEA, correct?

21 A. We started a program where we
22 actually interviewed and reviewed all the
23 applicants and the vast majority of the
24 applicants, once they realized -- once we
25 started asking questions, they withdrew their

1 application.

2 Q. Okay. To your recollection,
3 Mr. Rannazzisi, did any straw pharmacy actually
4 get opened and -- such that it was able to
5 dispense prescription controlled substances for
6 a period of time?

7 MS. SINGER: Objection. Compound
8 question.

9 MR. BENNETT: Objection. Scope.
10 You are not authorized to disclose
11 any information regarding any specific
12 nonpublic DEA investigations or activities. To
13 the extent that you can answer this question
14 with publicly available information, you may.

15 THE WITNESS: I -- I don't recall
16 any that got through the system.

17 MR. STEPHENS: Are you okay if we
18 take a break right now?

19 MR. BENNETT: That would be fine.

20 MR. STEPHENS: Yes.

21 MR. BENNETT: 10 minutes?

22 MR. STEPHENS: Yeah. 10.

23 THE VIDEOGRAPHER: We are going off
24 the record.

25 This is the end of Media Unit No. 4.

1 The time is 1:59.

2 (A short recess was taken.)

3 THE VIDEOGRAPHER: We are going back
4 on the record.

5 This is the start of the Media Unit
6 No. 5.

7 The time is 2:15.

8 You may proceed, Counsel.

9 EXAMINATION BY COUNSEL FOR CARDINAL HEALTH

10 BY MS. MAINIGI:

11 Q. Good afternoon, Mr. Rannazzisi.
12 My name is Enu Mainigi. And I
13 represent Cardinal Health. And I'll be asking
14 you some additional questions this afternoon on
15 behalf of the distributors.

16 Mr. Rannazzisi, you joined the DEA
17 back in about 1986; is that right?

18 A. Yes.

19 Q. And you started as a diversion
20 investigator; is that correct?

21 A. Yes.

22 Q. How long did you remain a diversion
23 investigator?

24 A. From 1986 to 1988.

25 Q. And did you go through training as a

1 diversion investigator?

2 A. Yes.

3 Q. That was in 1986?

4 A. Yes.

5 Q. And who conducted your training?

6 A. The diversion training unit at
7 Quantico, Virginia.

8 Q. Was Michael Mapes conducting the
9 training at that point in time?

10 A. Michael Mapes was a class
11 coordinator.

12 Q. And so did you take any training
13 from Mr. Mapes?

14 A. I don't remember if Mr. Mapes taught
15 or if he was just coordinating the class. They
16 had instructors, and they had class
17 coordinators. I don't recall if Mr. Mapes was
18 actually instructing at that time or if he was
19 just the class coordinator.

20 Q. Then after you were a diversion
21 investigator, you became a special agent; is
22 that correct?

23 A. Yes.

24 Q. And you continued to work in -- and
25 a special agent works essentially on the law

1 enforcement side of the DEA; is that right?

2 MS. SINGER: Objection. Vague.

3 THE WITNESS: Special agents have
4 full arrest powers, authority to carry a firm.
5 They work all sorts -- they -- they work all
6 criminal investigations related to Title 21.

7 BY MS. MAINIGI:

8 Q. But the special agents focus on
9 criminal investigations, correct?

10 A. Yes.

11 Q. And did you remain a special agent
12 -- well, let me retract that.

13 Did you remain on the law
14 enforcement side of the DEA until you went to
15 headquarters at the end of 2005?

16 MR. BENNETT: Objection. Vague.

17 MR. UTTER: Go ahead.

18 THE WITNESS: I remain on the law
19 enforcement side. I'm not -- I'm not sure what
20 you mean by that.

21 BY MS. MAINIGI:

22 Q. Let me -- let me rephrase.

23 Did you continue to focus on
24 criminal investigations until you arrived at
25 headquarters for your new role at the end of

2005?

A. I arrived to headquarters in 2004. And for a brief period of time in 2004, I was in the Office of Diversion Control.

Q. Okay. So let's just -- let's take that in bite-size pieces.

So from 1988 to 2004, you focused primarily on criminal investigations, correct?

A. Yes.

Q. And from that -- in that time period, 1988 to 2004, you did not regularly interact with wholesale distributors; is that right?

MR. BENNETT: Objection. Vague.

THE WITNESS: Yes. That's correct.

BY MS. MAINIGI:

Q. And you didn't perform any sort of regulatory inspections of distribution centers, correct?

MS. SINGER: Objection. Vague.

THE WITNESS: That -- that's correct.

BY MS. MAINIGI:

Q. And you didn't provide guidance on suspicious order reporting in that time from

1988 to 2004, correct?

A. That's correct.

Q. You didn't review excessive purchase reports in that time period of 1988 to 2004, correct?

MR. BENNETT: Objection. Vague.

THE WITNESS: I'm excessive purchase reports. I -- I'm -- I'm sorry.

Are you talking about excessive purchase reports or suspicious orders?

BY MS. MAINIGI:

Q. You didn't review excessive purchase reports in that time period from 1988 to 2004, did you?

A. No.

Q. Now, you said you arrived in headquarters in 2004, correct?

A. Yes.

Q. And what was your role in 2004?

A. I was the deputy director of the Office of Diversion Control.

Q. And you said in 2004 you were in diversion control briefly.

What was the time period, approximately?

A. I think I arrived in -- in March or April of '04, and I departed in August of '04.

Q. And where did you depart to?

A. I was -- I took over as the deputy chief of enforcement operations. So I ran all enforcement operations during that time.

Q. And so, from August 2004 to the time you returned to the department of antidiversion at the end of 2005, you were in enforcement?

A. I was in enforce --

MS. SINGER: Objection. Vague.

MR. BENNETT: Objection. Form.

THE WITNESS: I was in enforcement, but I also had a pharmaceutical -- a deployable pharmaceutical section under my control.

BY MS. MAINIGI:

Q. And what did that pharmaceutical section do? What was its role?

A. To assist the field in diversion investigations. And they were also deployable. They could be deployed out to actually help or -- or initiate investigations in --

Q. And --

A. -- the field.

Q. I'm sorry.

A. In the field.

Q. The move that you made in August, was that a promotion?

A. They -- they needed -- they needed somebody to help out enforcement operations. So they just decided I was the one.

THE REPORTER: I'm sorry. They decided...

THE WITNESS: They decided I was the one. Because I have a very -- my background is in all different types of enforce. And they needed somebody who had a wide range of background.

BY MS. MAINIGI:

Q. So while you were in diversion control for several months in 2004, what -- what were your responsibilities primarily?

A. I would assist the deputy assistant administrator in day-to-day functions, meetings, review documents, ensure that -- help him understand where the cases were going, you know, what cases were out there. Just general -- I was just his deputy. So I -- I did pretty much whatever he couldn't do or didn't -- you know, delegated down to me.

1 Q. And the deputy administrator at that
2 point in time was who?

3 A. William Walker.

4 Q. Then in late 2005 you became the
5 acting deputy assistant administrator of the
6 Office of Diversion and Control, right?

7 A. In -- in July or August of 2005, I
8 was asked to do both jobs. I was asked to run
9 diversion control. Because Mr. Walker had been
10 deployed, the military. So I was asked to
11 handle both enforcement operations and oversee
12 diversion control as well.

13 Q. And it's in that role as deputy
14 assistant administrator, beginning in that end
15 of 2005, beginning of 2006 time period, that
16 you been to testify in front of Congress; is
17 that right?

18 A. No. I started testifying in front
19 of Congress in 2004.

20 Q. In the -- the first time you were in
21 antidiversion?

22 A. Yes.

23 Q. In that 2005, 2006 time period, I
24 think as we've -- we've discussed some already
25 with the prior questioners, you had some

1 testimony in front of Congress on the problem
2 of Internet pharmacies; is that right?

3 A. Yes.

4 Q. And I think you testified with the
5 prior questioner about the evolution that
6 occurred first for the Internet pharmacies and
7 then the switch over to pain clinics, correct?

8 MR. BENNETT: Objection. Misstates
9 testimony.

10 MR. UTTER: Same objection. Go
11 ahead.

12 THE WITNESS: I testified that, you
13 know, we had an Internet pharmacy problem. And
14 once the Ryan Haight Act was passed, the -- the
15 problem shifted. Because most of the
16 brick-and-mortars, if not all of the
17 brick-and-mortars, were shut down.

18 And at that point in time, the
19 problem shifted to pain clinics, rogue pain
20 clinics, rogue doctors and pharmacists.

21 BY MS. MAINIGI:

22 Q. When would you pinpoint the issue of
23 Internet pharmacies really became a problem
24 known to the DEA, approximately?

25 MR. BENNETT: Objection. Scope.

1 Objection. Foundation.

2 THE WITNESS: Probably before I got
3 to headquarters in 2004. I'm guessing that it
4 was sometime between the end of 2003 and early
5 2004. I was getting briefings before I
6 arrived, phone briefings. So I think that's
7 the first time that we -- we discussed Internet
8 pharmacies.

9 BY MS. MAINIGI:

10 Q. And the phone brief -- briefing that
11 you were getting, were those for your new job
12 in antidiversion, or were they in relation to
13 your role in -- as -- as a special agent?

14 A. Well --

15 MS. SINGER: Objection. Scope.

16 THE WITNESS: They were preparing me
17 for the deputy director job, which was the
18 number two job in the Office of Diversion
19 Control. So I was briefed on a number of -- a
20 number of issues related to the Office of
21 Diversion Control. And I seem to remember that
22 one of the issues was the Internet pharmacies.

23 BY MS. MAINIGI:

24 Q. At some point in time in the 2005
25 time period, the E-commerce section of

1 antidiversion began developing a PowerPoint or
2 a deck related to Internet pharmacies to share
3 with distributors, correct?

4 MR. BENNETT: Objection.

5 Foundation.

6 MS. SINGER: Objection.

7 THE WITNESS: I don't know exactly
8 when in 2005, but there was a -- a PowerPoint
9 presentation prepared for Internet pharmacies.

10 BY MS. MAINIGI:

11 Q. And it became part of the
12 distributor initiative; is that right?

13 A. It was a PowerPoint that was given
14 in the distributor initiative, yes.

15 Q. And I think that the name of the
16 PowerPoint was the Internet Distributor
17 Initiative.

18 Does that sound right to you?

19 MR. BENNETT: Objection.
20 Foundation.

21 THE WITNESS: I -- I don't -- I
22 don't recall.

23 BY MS. MAINIGI:

24 Q. Do you -- the Internet -- or excuse
25 me.

1 The distributor initiative concept,
2 was that a concept that the E-commerce section
3 of antidiversion came up with?

4 MR. BENNETT: Objection. Scope.

5 You're not authorized to disclose
6 information that would reveal the internal
7 deliberative process within the Department of
8 Justice and DEA. To the extent that you can
9 answer his question without disclosing the
10 internal deliberative process, you may answer.

11 THE WITNESS: It was a collaborative
12 effort between the sections.

13 BY MS. MAINIGI:

14 Q. And which sections; do you recall?

15 MS. SINGER: Objection. Scope.

16 MR. BENNETT: You can answer the
17 question.

18 THE WITNESS: It was a collaborative
19 effort between E-commerce, pharmaceutical
20 investigations, liaison and policy.

21 BY MS. MAINIGI:

22 Q. And E-commerce, at that point in
23 time, was headed by Michael Mapes?

24 A. Yes.

25 Q. And pharmaceutical investigations

1 was headed by who?

2 A. I don't recall. I -- I think it was
3 Betsy Willis.

4 Q. And liaison and policy was headed by
5 who?

6 A. I don't recall.

7 Q. Is it fair to say that the two
8 individuals that at least initially developed
9 and then delivered the distributor initiative
10 were Michael Mapes and Kyle Wright?

11 MS. SINGER: Objection. Scope.

12 MR. BENNETT: Objection. Scope.
13 Foundation.

14 THE WITNESS: They were the primary
15 -- they delivered the presentation. And they
16 coordinated the presentation at the
17 headquarters level.

18 But there -- if I'm not mistaken,
19 there were other people that were involved in
20 those presentations.

21 BY MS. MAINIGI:

22 Q. Were you involved at all in
23 developing the distributor initiative?

24 A. I reviewed their -- their documents
25 and what they were doing before they actually

1 initiated it. But I was not present at the
2 meetings.

3 Q. So the individual one-on-one
4 distributor meetings that were held beginning
5 at the end of 2005, for several years
6 thereafter you were not present at those
7 meetings?

8 MS. SINGER: Objection. Foundation.

9 THE WITNESS: No. It was the
10 E-commerce section, liaison and policy,
11 pharmaceutical investigations, Office of Chief
12 Counsel, and at least one exec from my office.

13 BY MS. MAINIGI:

14 Q. And by one exec from your office,
15 who do you mean?

16 A. What -- I had at that time two or
17 three executive assistants. So one of them
18 would be in the -- in the meeting as well.

19 Q. And your executive assistants at
20 that point in time were who?

21 MR. BENNETT: Objection. Vague as
22 to time.

23 BY MS. MAINIGI:

24 Q. In 2005 time period.

25 A. It was either Mike Heald or Gary

1 Boggs.

2 Q. Now, the first of the Internet --
3 the distributor initiative briefings were
4 delivered in the fall of 2005.

5 Does that sound right to you?

6 A. I was thinking some time in August
7 or September, yeah.

8 Q. And you hadn't arrived back at
9 antidiversion at that point in time, correct?

10 A. I was doing both jobs. I was
11 bouncing between one building and the other.

12 Q. So you had input into what was being
13 presented to the distributors as part of the
14 distributor initiative?

15 MS. SINGER: Objection. Foundation.
16 Vague.

17 THE WITNESS: I reviewed the
18 documents. But the -- the presentation was
19 created again as a collaborative effort with --
20 with those three units in counsel's office.

21 BY MS. MAINIGI:

22 Q. Do you recall whether a set -- any
23 set of talking points that the individuals such
24 as Mr. Mapes and Mr. Wright, who were
25 delivering the initiative, would work off of

1 when they had their distributor meetings?

2 MR. BENNETT: Objection. Vague.

3 MR. UTTER: Go ahead.

4 THE WITNESS: I -- I don't recall if
5 there were talking points. I know they had
6 a -- a set presentation, PowerPoint
7 presentation, and individualized sales data for
8 the particular. But I don't know if there was
9 a set of talking points, no.

10 BY MS. MAINIGI:

11 Q. And with respect to the
12 individualized data, was that that they took
13 the ARCOS data for each distributor that they
14 were planning to meet with and analyzed that
15 data for anomalies?

16 MS. SINGER: Objection. Vague.

17 MR. BENNETT: Same objection.

18 THE WITNESS: I believe that's what
19 they were doing, yes.

20 BY MS. MAINIGI:

21 Q. And so they would go over that data
22 with the distributor and show the distributor
23 with the distributor's own data where the DEA
24 had seen some anomalies that were worthy of
25 questioning, fair?

1 MS. SINGER: Objection. Vague. And
2 foundation.

3 THE WITNESS: Yes. The -- yes.
4 That's what they would do.

5 BY MS. MAINIGI:

6 Q. So fair to say that they primarily
7 worked off of both the ARCOS data and then the
8 PowerPoint deck that had been prepared in
9 delivering the distributor initiatives?

10 A. I don't know if that's all they had.
11 I -- I don't know because I wasn't there.

12 Q. Okay. To the best of your
13 knowledge, are you aware of anything else
14 besides those two items, the PowerPoint deck as
15 well as the ARCOS data?

16 A. I'm aware of the ARCOS data and the
17 PowerPoint. But I'm not sure what else they
18 were using.

19 Q. Now, you sent a letter to at least
20 distributor registrants in the September 2006
21 time period, correct?

22 A. I think the letter went to
23 distributors and manufacturers.

24 Q. And the topic of the letter was
25 suspicious order reporting and -- and

1 monitoring, correct?

2 A. I don't have the letter handy.

3 Q. What do you recall it generally as
4 being?

5 A. It was to inform the -- the
6 population of distributors and manufacturers
7 what their obligations were under the
8 Controlled Substances Act and implementing
9 regulations.

10 Q. And fair to say that you sent
11 essentially the same letter out again in
12 February 2007?

13 A. Yes.

14 Q. And was that because there was a
15 part of the population that didn't receive the
16 letter?

17 What was the reason for sending the
18 letter out again?

19 A. I don't recall exactly. But I think
20 that it was just to ensure that everyone
21 received the letter. I don't know if they had
22 information that some people didn't get it.
23 But I think they just decided they were just
24 going to resend it again to ensure that
25 everybody had it.

1 Q. Now, who -- did you draft the
2 letter, or did someone help you draft letter?

3 A. It was drafted by several people.

4 Q. Do you recall who?

5 MS. SINGER: Objection.

6 MR. BENNETT: Objection. Scope.

7 You're not authorized to disclose
8 the internal deliberative process within the
9 United States Department of Justice or DEA. To
10 the extent that you can answer the question as
11 far as who without disclosing the internal
12 deliberative process, you may answer.

13 THE WITNESS: I -- I don't recall.
14 I -- I -- it was just a -- a normal letter. It
15 would be -- go through several people before it
16 got to me. I would make my corrections. And
17 it would come back -- go back down.

18 BY MS. MAINIGI:

19 Q. Now, would it surprise you to learn
20 that Mr. Wright and Mr. Mapes did not get an
21 opportunity to review that letter before it
22 went out?

23 MS. SINGER: Objection. Foundation.

24 MR. BENNETT: Objection.

25 Foundation. Objection. Form. Objection.

1 Scope.

2 MR. UTTER: Same objection.

3 MR. BENNETT: Just foundation and
4 form.

5 MR. UTTER: Same objection.

6 Go ahead.

7 THE WITNESS: I -- I -- I don't know
8 if they did or not.

9 BY MS. MAINIGI:

10 Q. Mr. Mapes and Mr. Wright were two of
11 the individuals that were primarily dealing
12 with the distributors at that point in time,
13 correct?

14 MS. SINGER: Objection. Foundation.
15 Mischaracterizes the witness's prior testimony.

16 MR. BENNETT: And objection. Vague
17 regarding the "dealing with."

18 MR. UTTER: Go ahead.

19 MR. BENNETT: Or objection. Vague.

20 THE WITNESS: I'm -- I'm not sure.
21 Liaison policy was dealing with the
22 distributors as well. And if I'm not mistaken,
23 the regulatory section, pharmaceutical
24 investigations, were also. So I -- I -- and I
25 just -- they were dealing with them, but

1 several components also were dealing with them.

2 BY MS. MAINIGI:

3 Q. And in liaison and policy, who do
4 you recall was primarily dealing with the
5 distributors, let's say in the '06, '07 time
6 period?

7 A. I don't recall. Because liaison
8 policy changed quite a bit. I mean it changed
9 as people rotated in and retired and left. So
10 I just don't recall who was there at the time.

11 Q. And you don't to recall -- well,
12 let's broaden the time period.

13 In the '05 to let's say '09 time
14 period, do you remember anyone in liaison and
15 policy that was dealing with distributors on a
16 regular basis?

17 MR. BENNETT: Objection. Vague.

18 THE WITNESS: Maybe Mark Caverly.

19 BY MS. MAINIGI:

20 Q. I'm sorry?

21 A. Mark Caverly.

22 Q. Did he attend the distributor
23 initiative meetings?

24 A. I don't know if he did or not.

25 Q. And then in pharmaceutical

1 investigations, was there any -- I assume, just
2 given the name, there wasn't anyone that was
3 specifically dealing with distributors in that
4 department?

5 MR. BENNETT: Objection. Form.
6 Objection. Vague.

7 THE WITNESS: I believe they were
8 dealing with distributors. And at that point
9 in time would have been Matt Murphy.

10 BY MS. MAINIGI:

11 Q. And was he part of the distributor
12 initiative briefings?

13 A. I believe he did attend those
14 distributor initiative briefings.

15 Q. And then the distributor initiative
16 briefings went on, to your recollection, how
17 long?

18 They started, as you said, in August
19 2005 and went to what time period?

20 A. When I left, they were still going
21 on.

22 Q. In 2016?

23 A. '15.

24 Q. Was there a period of time that they
25 stopped?

1 A. I don't recall a period of time
2 where they stopped.

3 Q. Would it surprise you to learn that
4 other folks have testified that they stopped
5 for a period of time because of concern about
6 litigation?

7 MR. BENNETT: Objection. Form.
8 Objection. Misstates testimony. Objection.
9 Foundation.

10 MR. UTTER: Same objection.

11 Go ahead.

12 THE WITNESS: I -- I don't recall if
13 they stopped or not. But lit -- unless we were
14 in litigation with the whole distribution
15 population, I -- I don't think that would have
16 stopped us from meeting the certain
17 distributors.

18 BY MS. MAINIGI:

19 Q. So you think the distributor
20 initiative briefings kept going straight
21 through the 2005 through 2016 time period?

22 MS. SINGER: Objection.

23 Mischaracterizes the witness's testimony.

24 MR. BENNETT: Same objection.

25 THE WITNESS: As far --

MR. UTTER: Same -- same objection.
Sorry. Go ahead.

THE WITNESS: As far as I recall, there was no break in the distributor -- now, they might not have been doing a huge number during certain time period, but that generally is because of resources.

But I don't recall any time where we shut down the distributor initiative for a period of time.

BY MS. MAINIGI:

Q. And I imagine, with respect to the distributor initiative, just as the focus of the DEA evolved from Internet pharmacies to pain clinics and perhaps on to other issues, that what was being discussed and shared at the distributor initiatives also evolved and changed?

MS. SINGER: Objection. Compound question.

MR. BENNETT: Objection. Form.

MR. UTTER: Same objection.

Go ahead.

THE WITNESS: I don't recall. Like I said, I was not in those -- those briefings.

So I -- I don't know. I would assume, like any other meeting, that they're going to talk about trends and changes in trends during the briefings, just like they do at the distributor conferences they have.

BY MS. MAINIGI:

Q. So going back to your letters, you then sent another letter in December 2007.

Do you recall that?

A. Yes.

Q. And what was the purpose of that letter relative to the prior two that you had sent?

MR. BENNETT: Objection.

Same instruction regarding internal deliberations. You can answer without disclosing internal deliberations.

THE WITNESS: The letter was sent to reinforce the previous two letters and also to make note and to pay attention -- ask them to pay attention to the Southwood Pharmaceutical decision that was done in 2007.

BY MS. MAINIGI:

Q. And what was it that you wanted attention focused on with respect to Southwood?

A. It was a case regarding a manufacturer/distributor and we wanted -- the case outlined what the obligations were and it was just reinforcing what the obligations that we had originally talked about in the distributor initiative and then also in the first two letters that went out.

Q. So coming out of the -- let me unpack what you said.

Coming out of the distributor initiatives, at least some times, the attendees from DEA wrote up a memo of what they discussed, right?

A. No, they always wrote up a memo.

Q. Okay. They always wrote up a memo, and is that a memo you reviewed usually?

A. Yes, it would be to me.

Q. Okay. But would you review it?

A. Of course. I review everything that comes across my desk.

Q. Okay. So those memos, did you find them to be just a fair and accurate reflection of how the meeting went as far as you were aware?

MR. BENNETT: Objection.

Foundation.

THE WITNESS: Those memos were just to inform me about the meeting, what was said, what was talked about and who was there. That's what the meeting was.

BY MS. MAINIGI:

Q. If you reviewed the memos and thought that those delivering the distributor initiative were not being complete in what they -- the messages they delivered, would you have let them know?

MS. SINGER: Objection.

Hypothetical. Calls for speculation.

MR. BENNETT: Join those objections.

MR. UTTER: Go ahead.

THE WITNESS: I am just trying to think of what was in the memos.

If I thought that they were missing something, I would probably add it in at the time, yeah. I would ask them to include it, or did you talk about this, and if not, why did you not talk about it, but most of the time, they were pretty complete in what they were doing.

BY MS. MAINIGI:

1 Q. And again, I imagine that the focus
2 of what was talked about in 2005, 2006 was
3 different than what the focus was in 2010,
4 2011, fair?

5 MS. SINGER: Objection. Asked and
6 answered.

7 MR. BENNETT: Objection. Form.

8 MR. UTTER: Same objections.

9 Go ahead.

10 THE WITNESS: No, because the
11 regulation never changed, and the whole basis
12 of the distributor initiative was to, one, make
13 sure they understand they must maintain
14 effective controls against diversion under 823
15 and then under 1301.71 and then -- and 74, and
16 then also, what a suspicious order is and what
17 their responsibilities were under suspicious
18 order monitoring Provision of 1301.74(b).

19 So the regulation in the statute
20 hasn't changed in over 40 years, so the fact
21 is, as long as they continued to explain what
22 their responsibilities are, they were doing
23 their job.

24 BY MS. MAINIGI:

25 Q. And where I was going, Mr.

1 Rannazzisi, was -- I imagine that the DEA had a
2 different way to deal with Internet pharmacies
3 than they did with pain clinics, for example;
4 would that be fair?

5 MR. BENNETT: Objection. Form.

6 MR. UTTER: Objection. Form.

7 Vague.

8 Go ahead.

9 THE WITNESS: They are different
10 types of cases, but it doesn't change what a
11 suspicious order is and a suspicious order over
12 the Internet or for a pharmacy that was
13 facilitating the Internet is pretty much the
14 same as a suspicious order on a pharmacy that
15 is ordering its quantity, you know, unusual
16 order, unusual size, frequency or deviating
17 substantially from the normal ordering pattern.
18 That hasn't changed so it's the same concept.

19 You still have to file suspicious
20 orders regardless of what the method of
21 diversion is.

22 BY MS. MAINIGI:

23 Q. And so would you -- with DEA in this
24 distributor initiative, just on a regular basis
25 meet maybe every few years with the same

1 distributor and then in that context, just
2 reinforce what the regulations said?

3 MS. SINGER: Objection. Compound
4 question. Calls for speculation.

5 MR. BENNETT: Objection. Form.

6 MR. UTTER: Go ahead.

7 THE WITNESS: We were meeting with
8 distributors that were -- that were not
9 provided with the initial distributor briefing
10 all throughout that time period. We also had
11 conferences where they came in and we would
12 discuss suspicious orders at the conferences,
13 and they were all invited to attend whether you
14 had the initiative distributor initiative
15 meeting or not. So we were getting the word
16 out that way as well.

17 BY MS. MAINIGI:

18 Q. So that makes sense to me, but what
19 -- in terms of -- you said one of the purposes
20 of the distributor initiative was to understand
21 what a suspicious order monitoring system was,
22 for example, right?

23 MS. SINGER: Objection.

24 Mischaracterizes the witness's past testimony.

25 THE WITNESS: I think what I said --

1 MR. BENNETT: Misstates testimony.

2 MR. UTTER: Same objection.

3 BY MS. MAINIGI:

4 Q. Go ahead. Tell me what you said.
5 I'm sorry.

6 A. I think what I said was -- to
7 explain their obligations for suspicious order
8 monitoring under the regulations.

9 Q. And so beyond providing a
10 distributor with what the regulation said about
11 their obligation for suspicious order
12 monitoring, would you provide, to your
13 knowledge, any additional information or
14 elaboration in these distributor initiative
15 meetings?

16 MR. BENNETT: Objection.
17 Foundation. Vague.

18 THE WITNESS: I am not sure what --
19 I'm not sure where you are going -- what you
20 are looking for.

21 They were provided with what a
22 suspicious order is. They were provided with
23 examples of suspicious orders. They were
24 provided with the statute and the regs that
25 identified what their requirements were under

1 the act and under the regulations, and they --
 2 that was followed up by three letters that
 3 again reinforced what they were told so, you
 4 know, I think that pretty well covers it.

5 BY MS. MAINIGI:

6 Q. Well, if Mr. -- if Mr. Wright has
 7 testified that he didn't see any of the three
 8 letters before they were sent out, how are you
 9 able to emphasize or reinforce in those three
 10 letters what they -- the distributors had been
 11 told at these meetings?

12 A. Because counsel --

13 MR. BENNETT: Wait. Objection.
 14 Foundation. Objection. Form.

15 You can answer.

16 THE WITNESS: Because counsel's
 17 office was in all the distributor meetings and
 18 they also assisted in the drafting of those
 19 minutes.

20 Now, I'm not sure if Mr. Wright saw
 21 those letters or not, but those letters were
 22 drafted, redrafted with the distributor
 23 initiative in mind and the people that were in
 24 that distributor initiative were responsible
 25 for drafting those letters.

1 BY MS. MAINIGI:

2 Q. From the counsel's office?

3 A. Counsel's office and my staff.

4 Q. So what is a suspicious order?

5 A. Well, according to 1301.74(b), it's
 6 an order of unusual size, frequency or
 7 substantially deviating from the normal
 8 ordering pattern.

9 Q. And so you said one of the things
 10 that were told or -- to the distributors, in
 11 addition to providing them the regulations at
 12 these meetings, you said they were told what a
 13 suspicious order is, right?

14 A. They were.

15 MS. SINGER: Objection. Misstates
 16 the witness's prior testimony.

17 MR. BENNETT: Same objection.

18 MR. UTTER: Same objection.

19 Go ahead.

20 THE WITNESS: They were provided
 21 with the regulation. They discussed the
 22 regulation. They answered questions related to
 23 the regulation, and then they showed specific
 24 examples of what a suspicious order would look
 25 like based on the transactions conducted by

1 each individual distributor.

2 BY MS. MAINIGI:

3 Q. So to your understanding -- have you
 4 ever described, and I don't need to know any
 5 names, but just generically, have you ever
 6 described to a registrant what a suspicious
 7 order is?

8 A. I have -- I'm sure that I have
 9 spoken to registrants in registrant meetings,
 10 you know, in conferences where I have explained
 11 what a suspicious order is.

12 Q. How do you explain it?

13 A. It's an order of unusual size,
 14 frequency or substantially deviating from the
 15 normal ordering pattern.

16 Q. Those are essentially the exact
 17 words from the regulation, correct?

18 A. Yes.

19 Q. And have you ever provided to a
 20 registrant any elaboration on that definition?

21 A. Definition seems pretty
 22 straightforward.

23 Q. Have registrants asked you for an
 24 elaboration on that definition?

25 A. Yes, and we have explained -- or not

1 we, the staff has explained to them exactly
 2 what is expected of them. If I am not
 3 mistaken, it was also in Southwood.

4 Q. Okay. So that is what I am trying
 5 to get to.

6 When the staff then or you explained
 7 exactly what is expected, tell me what you said
 8 back then.

9 A. Well, I wouldn't know.

10 MR. BENNETT: Objection.
 11 Foundation.

12 You can answer.

13 BY MS. MAINIGI:

14 Q. You wouldn't know?

15 A. I know this is a suspicious order.
 16 I -- what the staff would do is when they'd
 17 come in and say, well, we are confused about
 18 something or I don't understand this, they
 19 would sit down with them and they would say,
 20 okay, explain why and explain what you're
 21 confused about or whatever it is, and then they
 22 would explain what the requirements are under
 23 the regulations. So, you know, again, it's
 24 pretty straightforward regulation, unusual
 25 size, unusual frequency.

Q. So what is an order of unusual size?

A. An order of unusual size is a pattern, we will say, a pharmacy that has been ordering 5,000 tablets of Hydrocodone every month for the last three years and they all of a sudden bump it up to 20,000, then 50,000, then a hundred thousand and so on. That's unusual size.

Q. So it's unusual compared to their past practice?

A. Yes. One of the factors.

Q. What other factors?

MR. BENNETT: Objection. Scope.

THE WITNESS: They would be looking at other pharmacies that they service in that area, a pharmacy might have an unusually high purchase of a specific controlled substance in an area where everybody else was fairly consistent. That is unusual size as well.

Q. Just a large size compared to other pharmacies in the area?

A. Yes.

Q. But that large size could perhaps be explained by nonsuspicious reasons, correct?

A. That's due diligence.

Q. Anything else that defined unusual size in your mind?

MR. BENNETT: Objection. Scope. Objection. Incomplete hypothetical.

THE WITNESS: I'm sure there are other things but right now at this current moment, I don't have them right off the top of my head.

MS. SINGER: Is this a good time to take a break or sometime soon?

BY MS. MAINIGI:

Q. Can you keep going for a few more minutes, Mr. Rannazzisi?

A. Yes, about five more minutes.

Q. Okay. Let's go a couple more minutes.

What is an order deviating substantially from a normal pattern?

A. A pharmacy --

MR. BENNETT: Objection. Scope.

You can answer.

THE WITNESS: A pharmacy that is ordering Hydrocodone on a regular basis and all of a sudden, he starts ordering large quantities of hydromorphone for no apparent

reason, and there is no documentation why, and that might exceed the amount of Hydrocodone. That's -- he never ordered it before and now he is ordering quantities that are inconsistent with what he has previously done.

BY MS. MAINIGI:

Q. That's kind of the same as unusual size, right?

A. No.

Q. It's different?

MR. BENNETT: Objection.

BY MS. MAINIGI:

Q. How are those two different?

A. Well, it's a pattern. You've established a pattern of purchasing, and now all of a sudden, you are inserting a new drug in that pattern of purchasing. It doesn't have to be Hydrocodone or hydromorphone. It could be alprazolam, it could be clonazepam, it could be diazepam, it could be any pattern that -- anything that is different from your normal ordering pattern, so if all of a sudden, he starts -- or the person starts ordering 500 count bottles of alprazolam 2 milligrams, well, that is not within the normal ordering pattern,

or he's ordering carisoprodol, he never ordered carisoprodol before, now all of a sudden he is ordering carisoprodol. That is an ordering pattern deviation.

Q. And the phraseology is deviating substantially so what -- tell me what substantially means.

MR. BENNETT: Objection. Scope. Objection. Incomplete hypothetical.

THE WITNESS: Substantially means just that. It was -- it is something that triggers an inquiry because it's not something that has happened in the past. It is not something that was done in the past.

BY MS. MAINIGI:

Q. Okay. And unusual frequency, what does that mean?

MR. BENNETT: Objection. Scope.

THE WITNESS: A person orders Hydrocodone once a week and all of a sudden, he is ordering it once a day.

BY MS. MAINIGI:

Q. And doesn't that overlap with order deviating substantially from a normal pattern?

A. No. It's a frequency. It's not a

1 pattern. A pattern is drugs and types of drugs
2 they are ordering, a frequency is just that,
3 the frequency of purchases. Quantity is the
4 quantity of purchases.

5 Q. Okay.

6 MS. MAINIGI: Should we go ahead and
7 take a break.

8 THE VIDEOGRAPHER: We are going off
9 the record. This is the end of Media Unit No.
10 5. The time is 2:59.

11 (A short recess was taken.)

12 THE VIDEOGRAPHER: We are going back
13 on the record. This is the start of Media Unit
14 No. 6. The time is 3:13.

15 You may proceed, Counsel.

16 MS. MAINIGI: Counsel for the
17 government, I just wanted to address some of
18 the scope objections that you made, which I do
19 think are improper.

20 In your authorization letter of
21 December 10, 2018, you authorize, among other
22 areas for Mr. Rannazzisi, your personal
23 recollection of your communications with DEA
24 registrants about what makes an order
25 suspicious under 21 C.F.R. Section 1301.74,

1 including the letters you authored in 2006 and
2 2007, and perhaps also No. 4, which I won't
3 waste time reading right now.

4 MR. BENNETT: The only response I
5 would say, and I know we're not to argue on the
6 record is, you did not ask him what registrants
7 were told about what makes an order suspicious.

8 You asked him what his personal view
9 of suspicion was, not what was told, that's why
10 I believe it was outside the scope, but I'll
11 still let the witness answer the questions
12 based on his personal capacity.

13 MS. MAINIGI: Well, these are all in
14 his personal capacity, right? He is not here
15 as a 30(b)(6).

16 MR. BENNETT: His personal
17 knowledge, not his official Department of
18 Justice information. He is not a 30(b)(6)
19 witness, but he has been authorized to disclose
20 official Department of Justice information as a
21 former employee, just not on what his official
22 Department of Justice information would be on,
23 the definition of an item, for example, of
24 unusual size.

25 However, he is still able to answer

1 that question for you. You did not ask him,
2 what did you tell registrants about what was an
3 unusual size which is what would be within No.
4 3.

5 BY MS. MAINIGI:

6 Q. Well, let's make sure we do both,
7 Mr. Rannazzisi.

8 You gave me your definition of
9 unusual size, correct?

10 A. Yes.

11 Q. And I think you also told me earlier
12 that you don't recall yourself elaborating for
13 any registrant as you did in this deposition,
14 what unusual size meant to you, correct?

15 MS. SINGER: Objection. Misstates
16 prior testimony.

17 MR. BENNETT: I join that objection.

18 MR. UTTER: Same objection.

19 Go ahead.

20 THE WITNESS: I don't -- I haven't
21 had the opportunity -- well, I have never told
22 a registrant what their responsibility is as
23 far as what my definition of a suspicious order
24 is. That would have come from my staff or the
25 liaison policy section or the pharmaceutical

1 investigation section or E-commerce, you know,
2 if they were still there, but it wouldn't have
3 come from my office directly.

4 BY MS. MAINIGI:

5 Q. And were you ever aware of any
6 definition that could have been offered by one
7 of your staff to registrants?

8 A. I wasn't aware of what -- they were
9 trained, they are trained to follow what the
10 regulation says, and I'm sure they can give
11 examples just like I just did, but no, I am not
12 aware of any specific guidance that they gave.
13 I mean, we had companies calling in for all
14 different types of issues, not just related to
15 suspicious orders. They were trained to give
16 guidance based on the regs and the Controlled
17 Substances Act.

18 Q. Companies would call in, though, I
19 take it, to ask for further elaboration on the
20 definition of a suspicious order, correct?

21 MS. SINGER: Objection. Foundation.

22 MR. BENNETT: Same objection.

23 THE WITNESS: Companies have called
24 in to liaison and policy and also to -- back
25 when E-commerce was E-commerce and other

1 components and they were provided with
2 guidance.

3 BY MS. MAINIGI:

4 Q. And the guidance they were provided
5 was what, to your understanding?

6 MR. BENNETT: Objection. Vague.

7 THE WITNESS: The guidance they were
8 provided was based on the regulation and they
9 could answer specific questions related to the
10 regulation, specific -- there might be a
11 specific set of facts that they were looking at
12 and they could provide guidance, but generally,
13 the guidance followed the regulation.

14 BY MS. MAINIGI:

15 Q. And by that, you mean they read the
16 regulation to the registrant?

17 A. No.

18 MS. SINGER: Objection. Foundation.

19 THE WITNESS: No. What they did
20 was, they listened to the registrant and then
21 based on what the regulation says, try and help
22 them work through their issue.

23 BY MS. MAINIGI:

24 Q. So a registrant might call and say,
25 I have got an order that meets the following

1 description. Can you help me figure out
2 whether I should report this as a suspicious
3 order?

4 MS. SINGER: Objection.

5 Hypothetical. Calls for speculation.

6 MR. UTTER: Same objections.

7 Go ahead.

8 THE WITNESS: I don't know, that's
9 never been presented to me before, so I would
10 be -- I would be guessing what the answer was.

11 BY MS. MAINIGI:

12 Q. You are not aware of whether, as the
13 head of the anti-diversion control, that
14 registrants would call seeking elaboration on
15 whether what they had in front of them was a
16 suspicious order or not to be reported?

17 MS. SINGER: Objection.

18 Argumentative.

19 MR. BENNETT: Objection. Asked and
20 answered.

21 THE WITNESS: In my role as the head
22 of the Office of Diversion Control, I have a
23 lot of different things going on at once, and
24 I'm sure that if there was a question that they
25 couldn't answer, they would pop their head into

1 my office and say this is what came about, what
2 do you think. But no, I don't recall that ever
3 happening before. So they seemed to be able to
4 handle it.

5 BY MS. MAINIGI:

6 Q. You don't know what they might have
7 told a registrant about what defines a
8 suspicious order, correct?

9 MR. BENNETT: Objection.

10 Foundation.

11 MS. SINGER: Objection. Foundation.

12 THE WITNESS: The liaison and policy
13 section, as well as the other sections are
14 trained to provide answers that were in
15 compliance with the regulations in the
16 Controlled Substances Act.

17 BY MS. MAINIGI:

18 Q. So, for example, you gave -- I asked
19 you before we broke whether pattern and
20 frequency, whether those two terms could
21 overlap, that they could encompass the same
22 type of order, correct?

23 A. Yes.

24 Q. And you told me, no, that they are
25 not intended to overlap and you explained to me

1 why the term pattern and the term frequency
2 were different.

3 Do you recall that?

4 A. Yes.

5 MS. SINGER: Objection. Misstates
6 the witness's prior testimony.

7 THE WITNESS: Again, I explained to
8 you what an unusual size pattern substantially
9 deviating from the norm or -- and frequency,
10 unusual frequency.

11 BY MS. MAINIGI:

12 Q. Do you recall, though, I asked you a
13 question about, could pattern and frequency be
14 the same?

15 A. I don't recall that exact question.

16 Q. Okay. Well, do you recall me
17 walking through what normal pattern meant to
18 you and what unusual frequency meant to you?

19 A. I recall me giving you a definition,
20 my definition of what normal pattern and
21 unusual frequency is.

22 Q. And then do you recall me following
23 -- do you recall me following up and saying,
24 well, couldn't your definition of frequency or
25 unusual frequency be the same as unusual

1 pattern?

2 A. Again, my answer would be depending
3 on the facts and the suspicious order that had
4 come in, the transaction that had come in, the
5 request for the transaction that had come in.
6 I would have to look at each individual one and
7 see if there is an overlap or not. But I would
8 have to look at the transaction and the
9 request.

10 Q. So sometimes, there could be an
11 overlap between unusual frequency and unusual
12 pattern and sometimes, there wouldn't be; is
13 that right?

14 MS. SINGER: Objection. Misstates
15 the witness's prior testimony.

16 MR. BENNETT: Objection. Incomplete
17 hypothetical. Calls for speculation.

18 MR. UTTER: Same objections.

19 Go ahead.

20 THE WITNESS: Each individual
21 suspicious order, if -- if it rises to a
22 suspicious order, it could meet criteria. But
23 it -- again, it depends on the facts of that
24 order and that transaction, the -- the -- the
25 pharmacy that's making that purchase.

1 But in the end, it's up to the
2 distributor to decide whether they're going to
3 fill the order or not. It's a business
4 decision.

5 BY MS. MAINIGI:

6 Q. It's a business decision as to
7 whether something is a suspicious order as
8 well, correct?

9 A. Yes.

10 Q. And it may be that one business
11 faced with a particular order makes a different
12 decision on the exact same order than another
13 business, correct?

14 MS. SINGER: Objection.
15 Hypothetical. And calls for the witness to
16 speculate.

17 MR. BENNETT: And objection. Scope.

18 THE WITNESS: It depends on the type
19 of due diligence they're doing on their
20 customers; whether they know their customers
21 and what their customers' normal ordering
22 patterns are; where is their customer situated;
23 is the customer close to a hospital; is the
24 customer close to -- is in a rural area.

25 There's so many dynamics that the

1 drug enforcement administration doesn't have.
2 Only the business, the distributor, the
3 registrant has that information.

4 So if you're calling the Drug
5 Enforcement Administration to -- to -- to get
6 an okay to release an order, that's not going
7 happen. Because the Drug Enforcement
8 Administration does not know your customer.
9 You know the customer.

10 BY MS. MAINIGI:

11 Q. Only the business, at that point in
12 time, looking at the information before it as
13 well as its due diligence, can make the
14 business decision about whether something is a
15 suspicious order, correct?

16 MS. SINGER: Objection. Misstates
17 the witness's prior testimony.

18 MR. BENNETT: And objection. Scope.

19 THE WITNESS: Based on the facts of
20 the particular order and the customer, they are
21 required to make a decision on whether to file
22 the suspicious order and not ship or ship.

23 If they ship the order and it's not
24 been deemed to be -- their -- their suspicions
25 have not been resolved, then they're not

1 maintaining effective controls against
2 diversion.

3 BY MS. MAINIGI:

4 Q. How does the DEA then go back after
5 the fact and determine that something was
6 suspicious?

7 MS. SINGER: Objection. Lacks
8 foundation.

9 MR. BENNETT: Objection. Scope.
10 Also objection.

11 You are not authorized to disclose
12 information regarding any specific DEA
13 investigations or activities or any information
14 that would reveal the internal deliberative
15 process of the DEA.

16 To the extent that you can answer
17 the question without disclosing those, you may
18 answer the question.

19 THE WITNESS: I can't. I can't
20 answer it that way.

21 BY MS. MAINIGI:

22 Q. You can't tell me how the DEA would
23 then go back and figure out whether something
24 is suspicious or not?

25 A. It's part of the --

MR. BENNETT: I'll say --

THE WITNESS: -- investigative process.

MR. BENNETT: And I will say same instruction regarding the scope of your authorization.

BY MS. MAINIGI:

Q. So let me come back to -- to this -- so you gave me your elaboration and further definition of some of the terminology in 21 C.F.R. 1301.74, right?

A. Yes.

Q. But your elaboration, your further definition of unusual size, pattern, frequency, that's not in the regulation itself, right?

MR. BENNETT: Objection.

THE WITNESS: No.

Oh.

MR. BENNETT: Form.

Go ahead.

THE WITNESS: No, it's not in the regulation.

BY MS. MAINIGI:

Q. And the elaboration that you provided me on those terms -- unusual size,

pattern, and frequency -- that elaboration is not in any sort of written guidance, is it, to your knowledge?

A. With the exception of the three letters that discussed suspicious order monitoring and the fact that we sat down with each individual distributor and talked about it.

It was discussed in the Southwood decision. Other than that, no.

Q. Okay. Let's go through those.

A. Okay.

Q. Is it fair to say that the way you defined or further defined unusual size for me might be different than the way your deputy at the time might have defined unusual size to a registrant?

MS. SINGER: Objection. Calls for speculation.

MR. BENNETT: Same objection.

MR. UTTER: Objection.

Go ahead.

THE WITNESS: I don't know exactly what my deputy or any of the other people would use as an example. I used -- I gave you

examples of what my -- my position of what an unusual size is or an unusual frequency.

Deposition is based on, you know, my -- my own personal knowledge of how this works plus other -- plus previous cases that have been made public.

BY MS. MAINIGI:

Q. Sitting here today, you can't tell me that your definition of unusual size is the same as Michael Mapes's definition of unusual size, right?

MS. SINGER: Objection. Calls for speculation. Argumentative.

THE WITNESS: I don't know --

MR. BENNETT: Objection. Form. Objection. Scope.

THE WITNESS: I don't know what Mr. Mapes's definition of unusual size is. But I'm pretty sure it's pretty consistent with what my definition is.

BY MS. MAINIGI:

Q. Have you guys compared notes on that?

A. No. But based on the previous cases we've done, it's pretty -- pretty easy to see a

pattern of unusual size.

Q. I thought pattern and size were two different barometers.

A. It -- they are. But what I'm talking about, unusual size when you have a -- a pharmacy that's been ordering a certain amount for a long period of time, and then all of a sudden they bump up their purchases for no reason.

They haven't changed their area. They haven't moved near a hospital. And then they continue to increase without anybody filing a suspicious order, without anybody going out and doing due diligence.

Okay. That -- that's -- that's an unusual size that should be followed up.

Q. And do you think your definition of unusual size would be the same as Mr. Wright's definition of unusual size?

A. I don't --

MS. SINGER: Objection. Calls for speculation.

MR. BENNETT: Objection. Form. Objection. Scope.

Go ahead.

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1 THE WITNESS: I don't know what Mr.
2 Wright's definition is on unusual size. But
3 it's pretty straightforward. Unusual size is
4 just that, an unusual size.

5 BY MS. MAINIGI:

6 Q. Why did your division never write
7 down the further elaboration of the terms
8 "unusual size," "pattern" or "frequency" --

9 MS. SINGER: Objection. Found --

10 BY MS. MAINIGI:

11 Q. -- for distributors?

12 MS. SINGER: Sorry.

13 Objection. Foundation. And
14 objection. Scope.

15 MR. BENNETT: And I would object
16 that it misstates prior testimony.

17 And also I would inform the witness
18 that you are not authorized to disclose the
19 internal deliberative process of DEA or
20 information that would disclose nonpublic
21 recommendations you made or you're aware of
22 concerning any proposed agency action.

23 To the extent that you can answer
24 the question without disclosing that, you may
25 answer.

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1 THE WITNESS: In those limitations,
2 I can't answer that question.

3 BY MS. MAINIGI:

4 Q. Well, let me ask it this way: Has
5 DEA provided in written form your explanation
6 and elaboration of what a suspicious order is
7 to registrants?

8 A. Not as far as I'm aware. But again,
9 I gave you an explanation my opinion of what a
10 suspicious order of unusual size, frequency or
11 deviating substantially from the normal
12 ordering pattern. That was an -- examples and
13 a nonexhaustive list of what, in my opinion,
14 those are.

15 But in the end, only the distributor
16 could make a decision about what a suspicious
17 order of unusual size is.

18 Q. And, in fact, under your leadership,
19 you felt so strongly, Mr. Rannazzisi, that only
20 a distributor could decide what an unusual size
21 was or what a suspicious order was that you
22 essentially told your department not to provide
23 explanations and elaborations to registrants,
24 correct?

25 MS. SINGER: Objection.

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1 Argumentative. Lack of foundation. Compound
2 question.

3 MR. BENNETT: I join those
4 objections.

5 And I also indicate that the witness
6 is not authorized to disclose any nonpublic
7 recommendations you made or you're aware of
8 regarding any proposed agency action or reveal
9 the internal deliberative process within the
10 Department of Justice or the DEA.

11 MR. UTTER: Go ahead.

12 THE WITNESS: I've --

13 MR. BENNETT: Otherwise you can
14 answer.

15 THE WITNESS: Yeah. I've never
16 advised any of my people, while I was the head
17 of the Office of Diversion Control, not to
18 elaborate. And that wouldn't come from me
19 anyway. It could come from counsel's office.

20 BY MS. MAINIGI:

21 Q. And sitting here today, you don't
22 know, Mr. Rannazzisi, when Mr. Mapes or
23 Mr. Wright were asked to elaborate on what they
24 thought a suspicious order was, what they told
25 order registrants at distributor initiative

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1 meetings, correct?

2 MS. SINGER: Objection. Asked and
3 answered. Lack of foundation. Calls for
4 speculation.

5 THE WITNESS: I don't know exactly
6 what they said. But I know they followed the
7 regulation, which is unusual size, frequency,
8 substantially deviating from the normal
9 ordering pattern.

10 BY MS. MAINIGI:

11 Q. You mentioned the Southwood decision
12 as being perhaps instructive to the registrant
13 community about what a suspicious order was,
14 correct?

15 A. Yes.

16 Q. How was it instructive?

17 A. It explained what the
18 responsibilities were for suspicious order
19 monitoring. It explained what the requirements
20 were to maintain effective controls against
21 diversion. It explained that, you know, using
22 an example of a company that actually was
23 involved in this type of activity, what they
24 did and what the results of what they did were.

25 Q. Now, Southwood was an Internet

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1 pharmacy?

2 A. Southwood was a manufacturer -- a
3 repackager, I guess they would be, who supplied
4 Internet, among other types of registrants.

5 Q. So they were a supplier to an
6 Internet pharmacy?

7 A. They were a supplier to several
8 different registrant classes.

9 Q. And so what are some of the specific
10 elaborations of what goes into a suspicious
11 order monitoring system that come from
12 Southwood?

13 A. I don't have the decision. And I
14 read that decision a long time ago. But -- but
15 that's why the decision was included in the
16 December of 2007 letter to the registrant.

17 Q. And if I go to the Southwood
18 decision, I -- I would learn more about what
19 the DEA wants to see in the suspicious order
20 monitoring system?

21 A. I think --

22 MS. SINGER: Objection. Calls for
23 speculation.

24 THE WITNESS: I don't --

25 MR. BENNETT: Objection. Form.

1 Objection. Scope.

2 THE WITNESS: I don't know exactly
3 what you would learn from it. Everybody takes
4 things away from opinions, decisions
5 differently.

6 But it reinforces what we explained
7 to the registrant community in the distributor
8 initiatives and then the two memos before about
9 what their obligations are, what they're
10 supposed to do, and how they could maintain
11 effective controls against diversion.

12 BY MS. MAINIGI:

13 Q. The -- the word "pattern" -- could
14 the word "pattern" mean two different things
15 for two different distributors?

16 MS. SINGER: Objection. Calls for
17 speculation.

18 MR. BENNETT: I join that objection.
19 And objection. Scope.

20 MR. UTTER: Object. Speculation.

21 Go ahead.

22 THE WITNESS: I -- I -- I don't
23 know. I mean it's up to the distributor to
24 decide how he's going to define what a
25 quote/unquote pattern is as compared to an

1 unusual size or frequency.

2 BY MS. MAINIGI:

3 Q. Let me go -- you -- you also
4 mentioned, in addition to the Southwood
5 decision -- and if -- if we have time today,
6 we'll go ahead and get that decision marked so
7 we can go through it.

8 A. Okay.

9 Q. But you also referenced your
10 letters, right?

11 A. Uh-huh.

12 MS. MAINIGI: Is it attached to
13 the...

14 So let me put in front of you your
15 three letters.

16 THE WITNESS: Okay.

17 MS. MAINIGI: Let me -- let me
18 correct that.

19 I'm going to put in front of you
20 just the September 27, 2006 letter, which I
21 think is nearly identical to the February 2007
22 letter, as you recall.

23 THE WITNESS: Yes. I think you're
24 correct.

25 MS. MAINIGI: And then I'll also put

1 in front of you the December 27, 2007 letter,
2 Mr. Rannazzisi.

3 THE WITNESS: Okay.

4 MS. MAINIGI: Let's go ahead and get
5 those marked as separate exhibits, please.

6 (Deposition Exhibit 12 was marked
7 for identification.)

8 (Deposition Exhibit 13 was marked
9 for identification.)

10 MS. MAINIGI: Need a break,
11 Mr. Rannazzisi?

12 THE WITNESS: No. I'm fine.

13 MS. MAINIGI: Okay. The September
14 2006 letter is Exhibit 12. And the December
15 2007 letter is Exhibit 13.

16 BY MS. MAINIGI:

17 Q. So, Mr. Rannazzisi, I assume you're
18 still somewhat familiar with these letters,
19 correct?

20 A. For the most part, yes.

21 Q. Did you take a look at these letters
22 as part of your preparation for this
23 deposition?

24 A. Yes. At the department.

25 Q. So I'm not necessarily going to

1 direct you to any particular area.

2 What -- what I'd like you to just
3 direct me to is you indicated that the letters
4 served as further elaboration of what a
5 suspicious order is.

6 And so, if you could point out to me
7 in each letter where that elaboration is, I'd
8 be grateful.

9 MS. SINGER: Objection. Misstates
10 the witness's prior testimony.

11 MR. BENNETT: Objection. Form.

12 MR. UTTER: Go ahead.

13 THE WITNESS: It -- it -- it --

14 BY MS. MAINIGI:

15 Q. Well, let's start --

16 A. As far as the definition --

17 Q. Let's -- let's do one at a time.

18 A. -- suspicious orders include orders
19 of unusual size, orders deviating substantially
20 from a normal pattern, and orders of unusual
21 frequency.

22 Q. Okay. So we're on Exhibit 12?

23 A. Yes.

24 Q. And Exhibit 12 is the September 27,
25 2006 letter, right?

1 A. Yes.

2 Q. And that's identical to the February
3 2007 letter, as you recall?

4 A. Yes.

5 Q. Okay. So we are looking for your
6 further elaboration of what is a suspicious
7 order.

8 Can you direct us to what paragraph
9 you are at?

10 MS. SINGER: Again, objection.
11 Misstates the witness's prior testimony.

12 MR. BENNETT: Objection to form.

13 MR. UTTER: Go ahead.

14 THE WITNESS: Again, it's in the
15 middle of the page.

16 BY MS. MAINIGI:

17 Q. What page?

18 A. That's the definition.

19 Page 2.

20 Q. Page 2. Okay. Middle of the page.

21 A. Suspicious orders include orders of
22 unusual size, order deviating substantially
23 from the normal pattern, and orders of unusual
24 frequency.

25 It's pretty straightforward.

1 Q. Which paragraph were you -- I just
2 want the make sure I didn't miss it.

3 A. Right -- right in the middle. One,
4 two, three -- fourth paragraph in the -- right
5 after 21 C.F.R. 1301.74.

6 Q. Oh, the paragraph that's cut and
7 paste, the regulation itself?

8 A. The one that basically lists the
9 regulation and what a suspicious order is.

10 Q. So besides just repeating what the
11 regulation says, does the September 27, 2006
12 letter have any elaboration of what a
13 suspicious order is?

14 A. By definition, the regulation
15 explains what a suspicious order is.

16 MR. BENNETT: And I will object to
17 vague.

18 BY MS. MAINIGI:

19 Q. So you had indicated to me that the
20 letters explained further -- just much like
21 your individual definitions, I thought I
22 understood you to say that the letters further
23 elaborated on what a suspicious order was.

24 MS. SINGER: Objection.

25 BY MS. MAINIGI:

1 Q. That's not right?

2 MS. SINGER: Objection. Misstates
3 the witness's prior testimony.

4 THE WITNESS: The -- the letters
5 reinforce what was in the distributor
6 initiative briefings. And the letters discuss
7 what a suspicious order is.

8 Again, the -- it's just reinforcing
9 that this is a suspicious order. It's pretty
10 straightforward: unusual size, frequency, or
11 deviating substantially from the normal
12 ordering pattern.

13 BY MS. MAINIGI:

14 Q. I found your elaboration of unusual
15 size to be helpful.

16 Why not include those types of
17 elaborations in this letter?

18 MS. SINGER: Objection. Counsel is
19 testifying.

20 MR. BENNETT: Objection. Scope.

21 You're not authorized to disclose
22 the internal deliberative process or any
23 nonpublic recommendations you made or you're
24 aware of regarding what does or does not go
25 into the letter.

1 To the extent that you can answer
2 counsel question without disclosing that, you
3 may answer.

4 THE WITNESS: In the distributor
5 initiative briefings, they were presented with
6 a pattern which showed unusual size.

7 BY MS. MAINIGI:

8 Q. And the presentation of this pattern
9 that was in the ARCOS data that was presented?

10 A. Yes.

11 Q. Their own individual ARCOS data?

12 A. The -- the distributor that was
13 going through the briefing, we used their ARCOS
14 data.

15 Q. And so a pattern that emerged for
16 one distributor could have been different than
17 a pattern that emerged for another distributor,
18 right?

19 A. I don't know --

20 MS. SINGER: Objection. Calls for
21 speculation.

22 THE WITNESS: I don't know about
23 pattern. But we were talking about size at
24 that moment in time. If I'm not mistaken, the
25 three initial -- the three initial distributor

1 briefings, we concentrated on size.

2 There might have been a pattern --
3 there might have been a couple of pattern
4 examples as well, but it was mostly size.

5 BY MS. MAINIGI:

6 Q. So the goal was to first show
7 distributors what unusual size could mean,
8 correct?

9 A. Because we went into patterns and
10 showed the -- we -- if I'm -- like I said, I
11 wasn't in the briefing. But if I remember
12 correctly on what the briefing material had, it
13 showed patterns where we actually saw an
14 Internet pharmacy that was -- in their -- in
15 their patterns they started purchasing
16 carisoprodol or Xanax, alprazolam, 1 and 2
17 milligram tablets, which was not what they did
18 before.

19 So it established a pattern with
20 Hydrocodone. And it also showed that the
21 hydrocodone increases over a period of time.
22 And that was what was presented -- that's
23 explained to them this is a suspicious order;
24 in our opinion, this is what's suspicious.

25 Q. But that suspicion could be

1 alleviated by some due diligence, right?

2 A. It could be if they were doing due
3 diligence. But they weren't.

4 Q. And how do you know they weren't
5 doing due diligence?

6 MR. BENNETT: Objection. Scope.

7 You're not authorized to disclose
8 information regarding any specific DEA
9 investigations or activities that are not
10 public.

11 To the extent that you can answer
12 generally, or if you can answer with publicly
13 available information about DEA, activities you
14 may answer.

15 BY MS. MAINIGI:

16 Q. I'm not looking for specific
17 distributors.

18 But how can you say across the board
19 that there was -- you know there was no due
20 diligence?

21 A. On the --

22 MR. UTTER: Excuse me.

23 Object. That's not what he said.

24 Go ahead.

25 MR. BENNETT: And I would join that

1 objection. Misstates testimony.

2 THE WITNESS: On the distributor
3 briefings, we looked at specific unusual size
4 transactions and patterns. And we explained to
5 them that these shouldn't -- these were
6 suspicious, in our -- in -- in -- when we
7 looked at them, we believed they were
8 suspicious, and we asked them what they thought
9 of the transactions, is --

10 BY MS. MAINIGI:

11 Q. And --

12 A. -- how it was explained to me. Yes.

13 Q. I'm sorry.

14 And -- and it's possible that they
15 may have had a justification, through due
16 diligence, for having concluded that that
17 particular order was not suspicious, right?

18 MS. SINGER: Objection. Calls for
19 speculation.

20 MR. BENNETT: I would join that
21 objection.

22 MR. UTTER: Same objection.

23 Go ahead.

24 THE WITNESS: If they were doing due
25 diligence, they wouldn't have shipped those

1 drugs. But regardless, in one particular
2 company, the next go-around -- after we
3 notified them of what suspicious was, they
4 continued to ship in greater quantity
5 downstream than before the meeting.

6 BY MS. MAINIGI:

7 Q. You mentioned that -- just tell me
8 to the best of your recollection.

9 You -- I think I heard two things
10 from you: that the distributor briefing
11 initially focused on size, and then I heard you
12 say they focussed on size and pattern.

13 What's your best memory?

14 A. I believe it was both size and
15 pattern.

16 Q. Okay. And so you think that
17 Mr. Mapes, when he did these distributor
18 briefings, may have elaborated on the
19 definition of unusual size and unusual pattern?

20 A. He had to --

21 MS. SINGER: Objection.

22 THE WITNESS: -- because.

23 MS. SINGER: -- calls for
24 speculation.

25 THE WITNESS: The transactions were

1 based on size and pattern. So yes. And...

2 BY MS. MAINIGI:

3 Q. But you don't know what that
4 elaboration was?

5 A. No, I don't what that elaboration --

6 Q. And that elaboration could have
7 varied from distributor --

8 MR. BENNETT: Can you let the
9 witness finish his answer, please.

10 MS. MAINIGI: I'm sorry.

11 THE WITNESS: I don't --

12 BY MS. MAINIGI:

13 Q. That --

14 MR. BENNETT: Hang on.

15 Let her answer -- are you finished
16 with your answer to the previous question?

17 THE WITNESS: I'm sorry. Go ahead.

18 MS. MAINIGI: I'm sorry.

19 MR. BENNETT: Okay. Could you
20 please ask the question now.

21 And wait for her to finish --

22 THE WITNESS: Yes.

23 MR. BENNETT: -- the question before
24 you answer.

25 THE WITNESS: Okay.

1 BY MS. MAINIGI:

2 Q. And the elaboration could have
3 varied from distributor to distributor,
4 correct?

5 MR. BENNETT: Objection. Calls for
6 speculation.

7 THE WITNESS: The elaboration was
8 based on the individual distributor
9 transactions. So I would guess that it could,
10 based on the transactions they were using at
11 the time, yes.

12 Q. Now, for guidance, besides the
13 C.F.R., what would a distributor turn to that
14 didn't get their distributor briefing until
15 2009 or 2010?

16 A. Well, they had the letters. And
17 they could call in to the local DEA offices;
18 they could call into the liaison and policy
19 section; they could call into the
20 pharmaceutical regulatory section.

21 There was a number of places where
22 they could call to get their questions
23 answered.

24 Q. So we've already established the
25 letter doesn't give a definition of suspicious

1 order beyond the C.F.R. terminology, right?

2 MR. BENNETT: Objection. Misstates
3 prior testimony.

4 THE WITNESS: The -- the C.F.R.
5 test-- the C.F.R. definition is the official
6 definition of a suspicious order.

7 BY MS. MAINIGI:

8 Q. So how would a local D -- if they
9 could call a local DEA office, how would a
10 local DEA office know what to tell them versus
11 what headquarters is telling them?

12 MS. SINGER: Objection. Calls for
13 speculation.

14 MR. BENNETT: Objection. Scope.
15 Calls for speculation.

16 MR. UTTER: Same objection.

17 Go ahead.

18 THE WITNESS: The diversion
19 investigators and the headquarters staff are
20 basically told how to answer certain questions.

21 However, if the -- if the staff in
22 the field -- the -- the -- the field office
23 cannot answer the question, is not comfortable
24 answering the question, they would refer the
25 question up to liaison and policy. And liaison

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1 and policy would answer the question.

2 BY MS. MAINIGI:

3 Q. So the field offices, you don't
4 really know what they said in terms of defining
5 what an unusual order was, right?

6 MS. SINGER: Objection. Misstates
7 the witness's prior testimony.

8 MR. BENNETT: Objection.
9 Argumentative.

10 THE WITNESS: The field office
11 follows the regulations.

12 BY MS. MAINIGI:

13 Q. Did the field office -- is it fair
14 to say that, after your letters, there were
15 diversion investigators that called
16 headquarters and said they were confused about
17 how to administer or interpret these letters?

18 MS. SINGER: Objection. Lack of
19 foundation.

20 MR. BENNETT: Objection. Scope.

21 You can answer.

22 THE WITNESS: I'm not aware of any
23 calls from the field regarding the letters.

24 BY MS. MAINIGI:

25 Q. The field was not confused about

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1 what these letters meant?

2 MS. SINGER: Objection. Scope.

3 Objection. Asked and answered.

4 THE WITNESS: I -- again, I'm not
5 aware of the field being confused. But I'm
6 pretty sure that, if there was some confusion
7 about the letters, I'd be getting calls from an
8 -- from the assistant special agents in charge,
9 the DPM, or the SACs.

10 And no, those calls never came in.

11 BY MS. MAINIGI:

12 Q. And registrants, were they confused
13 after receiving the letter -- receiving these
14 letters?

15 MS. SINGER: Objection. Vague.
16 Lack of foundation.

17 MR. BENNETT: Objection. Calls for
18 speculation.

19 MR. UTTER: Same objection.

20 Go ahead.

21 THE WITNESS: Again, I don't know.
22 That -- those calls would go into liaison and
23 policy or division -- or the division offices,
24 the DPMs or the pharmaceutical regulatory
25 section.

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1 And I was not -- I'm not aware of
2 any calls that came in saying everybody's
3 confused.

4 BY MS. MAINIGI:

5 Q. Taking a look at Exhibit 13, which
6 is your December 2007 letter, does that letter
7 elaborate on the suspicious orders terminology
8 in any way?

9 MR. BENNETT: Objection. Vague.

10 MR. UTTER: Take your time.

11 THE WITNESS: Well, in the last
12 paragraph it does.

13 BY MS. MAINIGI:

14 Q. Last paragraph on the first page or
15 the second page?

16 A. On the first page.

17 Q. Okay.

18 A. "These criteria are disjunctive and
19 are not all-inclusive. For example, if an
20 order deviates substantially from a pattern --
21 a normal pattern, the size of the order does
22 not matter, and the order should be reported as
23 suspicious. Likewise, a registrant need not
24 wait for a normal pattern to develop over time
25 before determining whether a particular order

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1 is suspicious. The size of an order alone,
2 whether or not it deviates from a normal
3 pattern, is enough to trigger the registrant's
4 responsibility to report the order as
5 suspicious. The determination of whether an
6 order is suspicious depends not only on the
7 ordering patterns or the particular customer
8 but also on the patterns of the registrant's
9 customer base and the patterns throughout the
10 relevant segment of the regulated industry."

11 Q. To your knowledge, had this been
12 sent, this elaboration that is in the December
13 27, 2011 -- 2007 letter, had that been sent to
14 registrants before in writing?

15 A. This was -- this letter was sent
16 December 27. This is the elaboration that was
17 sent in December of 2000 -- of 2007.

18 Q. And was there, to your knowledge, a
19 prior elaboration of this type that had been
20 provided to registrants?

21 Essentially was this the first time
22 that that elaboration was provided in writing?

23 A. I don't believe there were any other
24 writings except for the two letters that were
25 sent before the February and the -- it was the

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1 September and the December letter.

2 Q. And the September and the February
3 letters did not have this elaboration that you
4 just read, right?

5 A. No.

6 Q. Do you know what prompted you to
7 include it here in this December 2007 letter?

8 MR. BENNETT: Objection.

9 MS. SINGER: Objection.

10 MR. BENNETT: Scope.

11 You're not authorized to disclose
12 the internal deliberative process. You are
13 also not allowed to disclose information that
14 would reveal attorney-client privileged
15 communications with internal counsel's office.

16 To the extent that you can answer
17 the question without disclosing that, you may
18 answer.

19 THE WITNESS: I can't answer the
20 question with those limitations.

21 BY MS. MAINIGI:

22 Q. Now, the December 2007 letter
23 references excessive purchase reports, right?

24 A. What -- where are you?

25 Q. Well, for example, in the third

1 paragraph on the first page.

2 A. Yes.

3 Q. And then again on the second page,
4 second paragraph.

5 Do you see that?

6 A. You said the second paragraph,
7 second page?

8 Q. Right.

9 A. Yes.

10 Q. Now, essentially you were telling
11 registrants in this letter no more excessive
12 purchase reports, right?

13 A. No.

14 MR. BENNETT: Objection.
15 Mischaracterizes the letter. Misstates the
16 letter.

17 THE WITNESS: We -- we never told
18 anybody not to send in excessive purchase
19 reports. What we told them was, "The
20 regulation requires you to file suspicious
21 order reports."

22 And then an excessive purchase
23 report is -- is not found when the -- it's not
24 a -- a report that's timely. It's a report
25 that's done at the end of the month or end of

1 the week.

2 A suspicious order report is one
3 that is done when discovered. It gives us an
4 opportunity to -- to act on it -- act on that
5 suspicious order fairly quickly.

6 And so all this letter said was,
7 "Look, you could do what you want with the
8 excessive purchases, and we'll gladly accept
9 them. However, it's not a suspicious order
10 reported. Land a suspicious order report is
11 what's controlled by the regulation."

12 BY MS. MAINIGI:

13 Q. You had not made those statements
14 that you just described in your earlier
15 letters, your December 2006 and the February
16 2007 letters, correct?

17 A. No. Well, I -- we discussed
18 suspicious ordering -- suspicious order
19 monitoring and when the -- the suspicious
20 orders report were to be filled. Yes, we did
21 discuss that. We didn't discuss excessive
22 purchase reports.

23 MS. SINGER: So we've been going
24 about another hour. Perhaps we should take
25 another break.

1 MS. MAINIGI: How long have we been
2 going?

3 THE VIDEOGRAPHER: I can tell you.
4 We started back at 3:13. So we've been going
5 about 43 minutes.

6 MS. MAINIGI: Okay. I think it's
7 just 43 minutes, Linda.

8 BY MS. MAINIGI:

9 Q. So with respect to the difference
10 between the first letter -- first set of
11 letters and the second letter, do you recall
12 there being confusion in the industry about the
13 excessive purchase reports?

14 MS. SINGER: Objection. Calls for
15 speculation. Vague. Foundation.

16 MR. UTTER: Object to speculation.
17 Go ahead.

18 THE WITNESS: I don't know exactly
19 about the confusion in the industry regarding
20 excessive purchase reports. But an excessive
21 purchase report is not a required report under
22 the Code of Federal Regulations or the CSA.

23 And the reason we were sending the
24 letters and did the distributor initiative is
25 to make sure they understood what a suspicious

1 order report is and when it's to be filed.

2 BY MS. MAINIGI:

3 Q. Now, with respect to suspicious
4 order monitoring systems, your 2006 and 2007
5 letters confirmed that distributors are
6 responsible for coming up with their own
7 suspicious order monitoring systems, correct?

8 A. It's in the regs. That's exactly
9 how it's the written.

10 Q. By the way, did you view your -- any
11 of your letters, your '06 or your '07 letters,
12 as guidance?

13 MS. SINGER: Objection. Calls for a
14 legal conclusion.

15 MR. BENNETT: Objection. Vague.

16 THE WITNESS: I'm not sure where
17 you're go -- it -- guidance as to what?

18 BY MS. MAINIGI:

19 Q. Well, are you familiar with the term
20 "guidance" in the context of the federal
21 government and agencies?

22 MS. SINGER: Objection. Vague.

23 MR. BENNETT: Same objections.

24 THE WITNESS: If -- if you're --
25 those letters were to reinforce what occurred

1 in the distributor initiative briefings, to
2 reinforce the fact that people -- that entities
3 and registrants must file suspicious orders.
4 That's what those letters were for --

5 BY MS. MAINIGI:

6 Q. What --

7 A. -- and how to file them.

8 Q. I'm sorry. That wasn't my question.

9 You're -- you're a trained attorney,
10 correct?

11 MR. BENNETT: Objection.

12 Argumentative.

13 BY MS. MAINIGI:

14 Q. You're a trained attorney?

15 A. I'm a trained attorney, yes.

16 Q. Do you understand, having held a
17 high-level position at the DEA, in addition to
18 being a trained attorney, what the difference
19 is between a regulation and guidance?

20 MS. SINGER: Objection.

21 Argumentative. Calls for legal conclusion.

22 Outside the scope of this deposition.

23 MR. UTTER: Go ahead.

24 THE WITNESS: A regulation goes
25 through notice and comment. A guidance is put

1 out by the agency.

2 BY MS. MAINIGI:

3 Q. And so guidance is not law; correct?

4 MS. SINGER: Same objections.

5 THE WITNESS: Well, it is when
6 you're talking about a -- a regulation that's
7 been on the books for 40 years where -- where a
8 value -- where what we're doing is reinforcing
9 that a regulation that's been on the books for
10 40 years needs to be followed and needs to be
11 followed in the manner that the regulation sets
12 up.

13 So all these letters did was say,
14 "This is the regulation. This is the
15 requirement. This is what is expected of you."

16 BY MS. MAINIGI:

17 Q. Well, guidance is not the same as
18 repeating the regulation; guidance is perhaps
19 elaboration on what a regulation means,
20 correct?

21 MR. BENNETT: Objection.

22 MS. SINGER: Objection. Counsel is
23 testifying. Asking for a legal conclusion.

24 MR. BENNETT: Objection. Form.

25 MR. UTTER: Go ahead.

1 THE WITNESS: I'm not sure -- I'm
2 not sure exactly -- could you ask -- ask that
3 question again.

4 BY MS. MAINIGI:

5 Q. Sure. I can just read back,
6 hopefully, what I said before the objections.
7 Guidance is not the same as the
8 regulation; guidance is an elaboration on what
9 the regulation means, correct?

10 MS. SINGER: Same objection.

11 MR. BENNETT: Same objection.

12 THE WITNESS: I'm not sure if this
13 letter is guidance. Although the letter was
14 sent out to provide the industry with a
15 reinforcement of what was told to them in the
16 initiative briefings, the distributor
17 initiative briefings.

18 BY MS. MAINIGI:

19 Q. And by this --

20 A. So I'm just not sure --

21 MR. BENNETT: Oh.

22 MS. MAINIGI: I'm sorry.

23 MR. BENNETT: Please allow the
24 witness to finish his answer.

25 THE WITNESS: So --

BY MS. MAINIGI:

Q. Are you done?

A. So I'm just not sure.

Q. Okay. And by this letter, just for clarity of the record, is it fair to say that you don't know whether the September 2006, February 2007 and December 2007 letters that you wrote to the industry or to the registrants are, in fact, guidance, correct?

MR. BENNETT: Objection. Misstates testimony. Objection. Calls for legal conclusion.

MR. UTTER: Same objection.

Go ahead.

THE WITNESS: I guess it would be considered some form of guidance to ensure that they understand what their obligations are under C.F.R.

BY MS. MAINIGI:

Q. So you do think they're guidance.

A. They're a --

MS. SINGER: Objection.

THE WITNESS: -- form of guidance.

MS. SINGER: Misstates the witness's prior testimony.

BY MS. MAINIGI:

Q. Are they guidance in the way that I originally posed the question to you, meaning you are familiar with the concept of federal agencies issuing guidance?

MS. SINGER: Objection. Compound question.

MR. BENNETT: Objection. Vague.

MS. SINGER: Calls for a legal conclusion.

THE WITNESS: Are you talking about notice and comment?

BY MS. MAINIGI:

Q. Does guidance go through notice and comment?

A. Rulemaking regulations go through notice and comment.

Q. Guidance doesn't go through notice and comment, right?

A. No.

Q. And, in fact, was it around this time that President Bush issued an executive order that essentially stated that guidance is not the same as law?

MS. SINGER: Objection. Foundation.

Calls for a legal conclusion. Scope.

MR. BENNETT: I join those objections.

MR. UTTER: Same objections.

Go ahead.

THE WITNESS: I don't know about that particular -- I don't know about what President Bush put out, but I can tell you that there is nothing in these documents that changes what the regulation and the statute said, so if there is nothing in the document that changes what the regulation and the statute is, then, you know, it's just a letter informing the registrant community of what their obligations are.

BY MS. MAINIGI:

Q. With respect to coming back to suspicious order monitoring systems, it was the obligation of the registrant to essentially come up with their own suspicious order monitoring system, correct?

A. Yes, to design and operate the system.

Q. And there was not any sort of guidance or checklist that were provided by DEA

to registrants as to what was required to be in a suspicious order monitoring system, correct?

MS. SINGER: Objection. Vague.

THE WITNESS: The regulation stands on its own. I believe the regulation says, the registrant shall design and operate a system that identifies and reports suspicious orders.

Again, it's a business decision based on what the registrant's needs are and the Drug Enforcement Administration does not tell a registrant what that specific system should look like.

MR. BENNETT: Counsel, we -- it is after 4:00 and I know we are planning on ending right around 5. Would this be an appropriate time to take our last break for the day?

MS. MAINIGI: Sure. We can take a break.

THE VIDEOGRAPHER: We are going off the record. This is the end of Media Unit No. 6. The time is 4:05.

(A short recess was taken.)

THE VIDEOGRAPHER: We are going back on the record. This is the start of Media Unit No. 7. The time is 4:18.

You may proceed, Counsel.

BY MS. MAINIGI:

Q. Mr. Rannazzisi, I am just looking for a yes or no on the following question: Does DEA have internal guidance as to what is a suspicious order?

MR. BENNETT: Objection. Scope.

You can answer the question yes or no only.

THE WITNESS: No.

BY MS. MAINIGI:

Q. And for clarity, let me focus you on time periods with that same question.

Let's say from the 2005 through the time you left DEA in 2016, that is the time period, in that time period of 2005 to 2016, yes or no, did DEA have internal guidance as to what constitutes a suspicious order?

MR. BENNETT: Objection. Scope.

You can answer that question yes or no only.

THE WITNESS: No.

BY MS. MAINIGI:

Q. In the time period 2005 to 2016, yes or no, did DEA have internal guidance as to

what constituted a suspicious order monitoring system that complied with regulations?

MR. BENNETT: Objection. Scope.

You can answer that question yes or no only.

THE WITNESS: I don't know about 2016, but for 2005 to 2015, no.

BY MS. MAINIGI:

Q. DEA expected registrants to update their suspicious order monitoring systems to adopt to changing environments, correct?

MR. BENNETT: Objection. Scope. Objection. Vague.

MR. UTTER: Go ahead.

THE WITNESS: DEA expected the registrant, the distributor registrants and the manufacturing registrants to design and operate a system that will identify and report suspicious orders.

BY MS. MAINIGI:

Q. And did DEA expect that a registrant would update their suspicious order monitoring system to adopt to a changing environment?

MS. SINGER: Objection. Vague.

MR. BENNETT: Objection. Vague.

Objection. Scope.

MR. UTTER: Objection. Asked and answered.

You can answer again.

THE WITNESS: Again, the answer is that we expect them to design and operate a system that identifies suspicious orders.

BY MS. MAINIGI:

Q. Would a system that identifies suspicious orders in 2002, in your mind, be an acceptable system in 2010?

MS. SINGER: Objection. Calls for speculation.

MR. BENNETT: Objection. Calls for speculation. Incomplete hypothetical and scope.

MR. UTTER: Go ahead.

THE WITNESS: I don't know because I didn't -- I have never reviewed a 2002 suspicious order monitoring system in 2002 or 2015. I mean, I don't know. I expect that they will design and operate a system that reports, identifies and reports suspicious orders.

BY MS. MAINIGI:

Q. So you, yourself, have never even inspected a suspicious order monitoring system, fair?

MR. BENNETT: Objection. Misstates testimony. Objection. Scope.

THE WITNESS: I have never gone on site and reviewed a suspicious order monitoring system, no.

BY MS. MAINIGI:

Q. Have you ever viewed one on paper?

MR. SMITH: Objection. Scope.

THE WITNESS: I may have looked years ago at the framework of a suspicious order monitoring system on paper.

BY MS. MAINIGI:

Q. Do you have an understanding of what would separate an acceptable compliance suspicious order monitoring system from one that was not compliant with regulations?

MS. SINGER: Objection. Vague. Foundation. Scope.

MR. BENNETT: Join the scope objection.

MR. UTTER: Go ahead.

THE WITNESS: Again, the suspicious

1 order monitoring system has to -- is designed
2 by the distributor -- the registrant, and
3 because it's designed by the registrant, you
4 know, it's their system to design. So I -- you
5 know, again, I'm not sure -- it's their system
6 to design under the regs.

7 BY MS. MAINIGI:

8 Q. So how does a registrant know that
9 their system is enough that its compliant with
10 the regulations?

11 MS. SINGER: Objection. Calls for
12 speculation.

13 MR. BENNETT: Objection. Scope.

14 THE WITNESS: Because the regs tell
15 them that they must design and operate a system
16 that identifies suspicious orders and they have
17 to report. How they create that system is a
18 business decision and as long as it identifies
19 and reports suspicious orders, then -- and they
20 are comfortable with that system, then they
21 have a system.

22 BY MS. MAINIGI:

23 Q. So there is more than one way to
24 design a compliant suspicious order monitoring
25 system?

1 MR. BENNETT: Objection. Scope.

2 MR. UTTER: Asked and answered for
3 the third time.

4 Go ahead.

5 THE WITNESS: I don't -- I don't
6 know what the different ways of creating a
7 system is. Again, I can only go by what the
8 regulation says and it is up to the registrant
9 to design and operate a system.

10 BY MS. MAINIGI:

11 Q. Was there any single feature that
12 made a system compliant?

13 A. Yes, that they identify suspicious
14 orders or unusual size, frequency or deviating
15 substantially from a normal ordering pattern.

16 Q. Could two companies have different
17 suspicious order monitoring systems and they
18 were both compliant?

19 MS. SINGER: Objection. Calls for
20 the witness to speculate.

21 MR. BENNETT: Objection. Scope.

22 THE WITNESS: Again, I don't -- I
23 don't know. It's up to them to decide what
24 their systems are and without seeing or knowing
25 about -- knowing about each individual system,

1 I don't know. I mean, one system could be --
2 could be identifying suspicious orders and
3 another might not identify suspicious orders
4 appropriately.

5 BY MS. MAINIGI:

6 Q. Well, what would you be looking for
7 between those two systems, Mr. Rannazzisi?

8 A. What the reg says. They have to
9 identify suspicious orders.

10 Q. So if both systems are identifying
11 suspicious orders, companies are reporting
12 suspicious orders, is it possible that two
13 companies that have employed two different
14 systems for suspicious order monitoring could
15 both be compliant?

16 MS. SINGER: Objection. Calls for
17 speculation. The question has been asked and
18 answered.

19 MR. BENNETT: Objection. Scope.

20 May I have a continuing objection to
21 -- based on scope to all your questions about
22 suspicious order monitoring systems so I don't
23 have to keep objecting?

24 MS. MAINIGI: No.

25 MR. BENNETT: Objection.

1 MR. UTTER: Object to speculation.

2 Go ahead.

3 THE WITNESS: Again, without seeing
4 the systems, is it possible, I'm sure anything
5 is possible, but in the end, it falls back to
6 whether the system can identify -- is designed
7 to identify and report suspicious orders.

8 BY MS. MAINIGI:

9 Q. Well, without naming any company
10 names, Mr. Rannazzisi, as head of diversion
11 control for so many years, were you somehow
12 under the impression that every company had an
13 identical suspicious order monitoring system?

14 MS. SINGER: Objection. Foundation.
15 Vague. Scope.

16 MR. BENNETT: I'll join the scope
17 objection and also objection. Argumentative.

18 MR. UTTER: Go ahead.

19 THE WITNESS: I never really thought
20 about it. I just knew that they were supposed
21 to design and operate a system that identifies
22 suspicious orders. I knew what a suspicious
23 order was by definition, and I expected that
24 they would be the ones to create that system.

25 BY MS. MAINIGI:

1 Q. So it's likely then, while you were
2 head of diversion control, that there were
3 companies operating in compliance that had
4 different suspicious order monitoring systems,
5 right?

6 MS. SINGER: Objection. Calls for
7 speculation beyond this witness's experience.

8 MR. BENNETT: Objection. Scope.

9 MR. UTTER: Objection to whether
10 they were in compliance.

11 But go ahead, you can answer.

12 THE WITNESS: Could you repeat that
13 one question, please.

14 BY MS. MAINIGI:

15 Q. Sure. So it's likely then, while
16 you were head of diversion control, that there
17 were companies operating in compliance that had
18 different suspicious order monitoring systems,
19 correct?

20 MS. SINGER: Same objections.

21 MR. UTTER: Same objection.

22 Go ahead.

23 THE WITNESS: In compliance with
24 what? In compliance with the suspicious order
25 monitoring reg?

1 BY MS. MAINIGI:

2 Q. Yes.

3 A. I don't know. Because -- just
4 because you have a system doesn't mean you are
5 following your protocols in your system. You
6 might have the greatest system in the world but
7 if you are not following your own protocols, if
8 you are not looking at each individual order
9 that the system kicks out, doing due diligence,
10 maintaining effective controls against
11 diversion, then the system is worthless because
12 you are not following the protocols that you
13 established, so I can't say that.

14 Q. So following the protocols that you
15 established, is that some sort of guidance that
16 DEA put out to companies?

17 MS. SINGER: Objection. Vague.

18 MR. BENNETT: Objection. Vague.
19 Objection. Scope.

20 THE WITNESS: It would be -- it
21 would be common sense for a company to
22 establish protocols and then follow their own
23 protocols within their suspicious order
24 monitoring system.

25 BY MS. MAINIGI:

1 Q. Does the regulations say to do that?

2 A. I don't think the regulation needs
3 to say that. That is common sense within your
4 organization. Why have protocols if you are
5 not following them.

6 Q. So sitting here today, Mr.
7 Rannazzisi, you can't tell me what the various
8 components would be of a successful compliant
9 suspicious order monitoring system?

10 MS. SINGER: Objection. Misstates
11 the witness's testimony. Asked and answered.
12 Scope.

13 MR. BENNETT: Objection. Scope.

14 MR. UTTER: Asked and answered for
15 about the fourth time.

16 You can go ahead, Mr. Rannazzisi.

17 THE WITNESS: A system that
18 identifies a suspicious order. So the company
19 would have to design and operate a system that
20 identifies a suspicious order which is defined
21 as an order of unusual size, frequency, or
22 substantially deviating from normal ordering
23 patent, a regulation that has been in place for
24 over 40 years.

25 BY MS. MAINIGI:

1 Q. Anything else that would be a key
2 component of a suspicious order monitoring
3 system?

4 A. Yes. That the --

5 MR. BENNETT: Objection. Vague.
6 Objection. Scope.

7 MR. UTTER: Go ahead.

8 THE WITNESS: That the order is
9 reported when discovered.

10 BY MS. MAINIGI:

11 Q. Anything else?

12 MR. BENNETT: Same objection.

13 MS. SINGER: Objection. Vague.

14 THE WITNESS: Off the top of my head
15 right now, I can't think of anything else.

16 BY MS. MAINIGI:

17 Q. Okay. Do you recall a time where
18 the distributor trade association came to you
19 and your colleagues seeking additional guidance
20 on reporting suspicious orders and suspicious
21 order monitoring systems?

22 MS. SINGER: Objection. Vague.
23 Lack of foundation.

24 THE WITNESS: Do you have a time
25 period?

BY MS. MAINIGI:

Q. Say, approximately 2010, '11, thereabouts.

MR. UTTER: Go ahead.

THE WITNESS: Yes. There was a meeting. I was not present but my staff was present with counsel.

BY MS. MAINIGI:

Q. And do you recall that the purpose of the meeting was in part to see if DEA would provide any additional guidance on either identification of suspicious orders or what a compliant suspicious order monitoring system would look like?

MS. SINGER: Objection to form. Vague. Outside the witness's scope and capacity.

MR. BENNETT: Objection. Foundation.

MR. UTTER: Objection. Speculation. Go ahead.

THE WITNESS: I was not at the meeting so I really can't tell you, but I seem to remember that after that meeting, counsel and some of the people that worked for me came

back and they explained that --

MR. BENNETT: I'm going to appropriate and indicate you are not authorized to disclose things that you discussed with general counsel or that general counsel advised you of.

To the extent that you can continue your answer without disclosing attorney-client privileged communications, you may continue your answer.

THE WITNESS: I'm sorry. I can't. I can't.

BY MS. MAINIGI:

Q. Let me ask it this way: To your knowledge, did DEA ever answer HDMA's questions regarding guidance on the definition of a suspicious order?

MS. SINGER: Objection. Vague and foundation.

MR. BENNETT: Objection. Foundation.

MR. UTTER: Go ahead.

THE WITNESS: I'm not sure if there was a formal request, and I don't know if there was a formal response for a suspicious order.

BY MS. MAINIGI:

Q. I'm sorry. Is it fair to say that DEA, in fact, did not provide HDMA in the 2010, 2011 time period with any additional guidance on identification of a suspicious order?

MS. SINGER: Objection. Asked and answered.

MR. BENNETT: Objection. Misstates prior testimony.

MR. UTTER: Object to speculation. Go ahead.

THE WITNESS: I don't know.

BY MS. MAINIGI:

Q. Sitting here today, do you recall any that was affirmatively provided?

A. I don't. I just don't recall.

Q. Do you recall any guidance provided to HDMA about a -- what would make up a compliant suspicious order monitoring system in that same time period?

MS. SINGER: Objection. Scope.

MR. UTTER: Go ahead.

THE WITNESS: I don't recall, generally, HDMA is not a registrant. Those questions would generally come from the

registrants and the registrants would be answered. HDMA is an adequacy group, a lobbying group for the distributors.

BY MS. MAINIGI:

Q. It's made up of registrants, right?

A. Yes.

Q. Are you saying that if a registrant had a question about the definition of a suspicious order or what would make up a compliant suspicious order monitoring system, that those questions would have been answered in this time period?

MS. SINGER: Objection. Calls for speculation. Hypothetical.

MR. UTTER: Objection. Asked and answered.

Go ahead.

THE WITNESS: What I am saying is that I don't know if HDMA was answered. I am sure that when a distributor or a manufacturer or a pharmacy or a physician calls in with questions, their questions would be handled and answered.

BY MS. MAINIGI:

Q. Now, during your tenure, it was

1 DEA's policy not to approve or endorse a
2 particular registrant's suspicious order
3 monitoring system, correct?

4 MS. SINGER: Objection. Scope.

5 MR. UTTER: You can answer.

6 THE WITNESS: Based on consultation
7 with components within DEA and counsel's
8 office, yes, that's correct. We did not.

9 BY MS. MAINIGI:

10 Q. So if a registrant called and said,
11 here is the five components of my suspicious
12 order monitoring system, does that meet your
13 guidelines, you wouldn't answer that question,
14 right?

15 MS. SINGER: Objection. Calls for
16 speculation.

17 MR. UTTER: Object to the form of
18 the question. There are no guidelines.

19 Go ahead.

20 THE WITNESS: I -- that was
21 something we would -- we would ask other
22 components to -- including counsel's office, to
23 look at.

24 BY MS. MAINIGI:

25 Q. And your counsel is right, there

1 were no guidelines, right?

2 MS. SINGER: Objection.

3 THE WITNESS: I'm not sure.

4 BY MS. MAINIGI:

5 Q. There were not any guidelines on
6 what made up a successful compliant suspicious
7 order monitoring system, correct?

8 MR. BENNETT: Objection. Vague.

9 THE WITNESS: There didn't need to
10 be guidelines because that was the whole idea
11 behind the regulation, to operate, design and
12 operate a system to identify and report
13 suspicious orders.

14 BY MS. MAINIGI:

15 Q. Now, that regulation came into place
16 in 1971, right?

17 A. 40-plus years, yes.

18 Q. Were there opioids in 1971?

19 MR. BENNETT: Objection. Scope.
20 Lack of foundation.

21 You can answer.

22 MR. UTTER: Go ahead.

23 THE WITNESS: If you're defining
24 opioids as the semisynthetic or synthetic
25 versions, yes, there were opioids.

1 BY MS. MAINIGI:

2 Q. There were opioids in 1971?

3 A. Yes.

4 Q. What were they?

5 MR. BENNETT: Objection. Scope.

6 THE WITNESS: Codeine, morphine,
7 hydromorphone, Hydrocodone, but not in the
8 tablet form, opium, Methadone, quite a few.

9 BY MS. MAINIGI:

10 Q. So no need for additional guidelines
11 because the regulation and the wording of the
12 regulation stood the test of time, right?

13 MS. SINGER: Objection. Asked and
14 answered. Argumentative.

15 MR. BENNETT: Objection.
16 Argumentative. Objection. Scope.

17 MR. UTTER: Go ahead.

18 THE WITNESS: Again, the regulation
19 is the regulation. That's what we followed,
20 yes.

21 BY MS. MAINIGI:

22 Q. Was there a point in time either
23 before -- right before your departure or right
24 after your departure, that you understood that
25 there was a movement within DEA to amend the

1 regulations to provide greater specificity?

2 MS. SINGER: Objection. Lack of
3 foundation.

4 BY MS. MAINIGI:

5 Q. Yes or no.

6 MR. BENNETT: Objection. Scope.

7 You are not authorized to disclose
8 any information that would reveal the internal
9 deliberative process within DEA, information
10 that would reveal nonpublic recommendations you
11 made or you're aware of concerning any proposed
12 agency action.

13 To the extent that you are aware of
14 any public recommendations concerning any
15 proposed agency action, you may answer. To the
16 extent if there is any nonpublic, you may not
17 answer.

18 MR. UTTER: Go ahead.

19 THE WITNESS: I -- no.

20 BY MS. MAINIGI:

21 Q. No, what?

22 A. You asked me if I knew of any
23 movement within DEA to change the suspicious
24 order monitoring regulation and the answer is
25 no.

1 Q. Okay. Now, in one of your prior
2 answers, you referenced other components
3 including counsel's office.

4 Without detailing for me or telling
5 me at all about any conversations that involved
6 counsel's office, did you mean by that that if
7 someone asked, is my suspicious order
8 monitoring system compliant, that you would
9 refer them to counsel's office for an answer?

10 MS. SINGER: Objection. Calls for
11 speculation.

12 MR. BENNETT: Objection. Misstates
13 testimony.

14 MR. UTTER: Go ahead.

15 THE WITNESS: Counsel's office was
16 always consulted on matters of suspicious
17 orders and other matters like that. But again,
18 when I am talking about other components, you
19 have an investigative team and pharmaceutical
20 investigations. You have an investigative
21 regulatory team and regulatory investigations.
22 You have liaison and policy, counsel's office,
23 and the executives that worked in the front
24 office, so all of them generally had some type
25 of input.

1 BY MS. MAINIGI:

2 Q. I don't think that answered my
3 question.

4 Yes or no, did -- to your knowledge,
5 did counsel's office or any other components of
6 DEA approve suspicious order monitoring
7 systems?

8 A. Nobody approves suspicious order
9 monitoring systems. I think the letters were
10 perfectly -- were very clear in the letters
11 that DEA does not approve a suspicious order
12 monitoring system.

13 Q. Could one call the counsel's office
14 and get some sort of indication that particular
15 components of a suspicious order monitoring
16 system were compliant with regulations or not
17 compliant with regulations?

18 MS. SINGER: Objection.

19 MR. BENNETT: Objection. Vague.

20 To the extent that the question
21 calls for circumstances where DEA executives
22 and officials would seek advice of counsel,
23 you're instructed you're not authorized to
24 answer.

25 To the extent the question calls for

1 third parties outside of DEA to call counsel's
2 office, you may answer.

3 MS. SINGER: Again, speculate --
4 calls for speculation.

5 MR. UTTER: Go ahead.

6 THE WITNESS: So the question is
7 whether outside individuals could call
8 counsel's office?

9 BY MS. MAINIGI:

10 Q. Or any other component or department
11 of DEA and get advice as to particular
12 components of their suspicious order monitoring
13 system.

14 MR. BENNETT: Objection. Scope.

15 Not authorized to disclose any
16 attorney-client privileged communications.

17 To the extent that you can answer
18 without disclosing attorney-client privileged
19 communications, you may answer that question.

20 THE WITNESS: Again, there's --
21 there's at least two components besides --
22 besides counsel's office that could answer
23 questions related to suspicious order
24 monitoring: liaison policy and regulatory
25 investigations.

1 BY MS. MAINIGI:

2 Q. To your knowledge, did any of those
3 departments keep track of the questions that
4 they were asked?

5 MS. SINGER: Objection. Scope.

6 THE WITNESS: I'm not sure.

7 BY MS. MAINIGI:

8 Q. To your knowledge, did any of those
9 departments have internal guidance on what they
10 could or could not say as to suspicious order
11 monitoring systems?

12 A. The guidance is the regulations. We
13 don't vary far from the regulations.

14 Q. After the December 27, 2007 letter,
15 which went to all registrants, did you send any
16 more letters to registrants related to
17 suspicious orders or suspicious order
18 monitoring systems?

19 MR. BENNETT: Objection. Vague.
20 Compound.

21 MR. UTTER: Go ahead.

22 THE WITNESS: I don't believe any
23 letters went out after that.

24 BY MS. MAINIGI:

25 Q. Was there any communication with the

1 industry, whether it's distributors,
2 manufacturers or pharmacies, in 2008, for
3 example, as to what the DEA was looking for
4 when it came to suspicious order monitoring and
5 reporting?

6 MS. SINGER: Objection. Vague.

7 MR. UTTER: You can answer again.

8 THE WITNESS: There were conferences
9 where we explained suspicious order monitoring.
10 There were conferences where we explained what
11 effective controls against diversion was. And
12 those conferences were attended by
13 manufacturers and distributors.

14 I think there were -- they -- they
15 happened every couple of years, every two years
16 or so.

17 BY MS. MAINIGI:

18 Q. Do you recall when those conferences
19 took place, meaning specific years?

20 A. No. But I'm sure that, if they
21 haven't taken it down, it's on the DEA web
22 site.

23 Q. And you said there would be
24 explanations of what constituted a suspicious
25 order at these conferences?

1 A. They discussed suspicious order
2 monitoring.

3 Q. And did anyone from DEA memorialize
4 what DEA said as to what was a suspicious
5 order?

6 A. I don't know.

7 Q. Did anyone from DEA at these
8 conferences memorialize what was said as to
9 what constituted a suspicious order monitoring
10 system?

11 A. I don't know. I wasn't at those
12 conferences. So I didn't see the
13 presentations.

14 Q. Who presented at these conferences
15 from DEA?

16 A. The same components that were
17 discussed: regulatory investigations,
18 E-commerce, liaison and policy, pharmaceutical
19 investigations.

20 Q. Do you recall ever seeing any report
21 of what they might have said at these
22 conferences, those departments?

23 A. I don't recall.

24 Counsel's office presented, too, if
25 I'm not mistaken.

1 Q. How do you know that they were told,
2 for example, "Here's what a suspicious order
3 looks like"?

4 MS. SINGER: Objection. Misstates
5 the witness's testimony.

6 MR. UTTER: Same objection.

7 MR. BENNETT: Same objection.

8 THE WITNESS: They discussed
9 suspicious order monitoring. I don't know if
10 they discussed this is what it looks like. I
11 can assume that that's what they discussed.

12 BY MS. MAINIGI:

13 Q. Now, were you aware of a
14 pharmaceutical industry conference in 2007?

15 A. They -- I believe they did have one
16 in 2007, yes.

17 Q. And that conference would have
18 addressed multiple segments of the industry,
19 right?

20 A. I believe it was distributors and
21 manufacturers.

22 Q. Okay. And you already said you
23 didn't attend that conference personally.
24 Okay.

25 Now --

1 MR. BENNETT: Objection.

2 BY MS. MAINIGI:

3 Q. -- according to the DEA web site --

4 MR. BENNETT: Objection. I don't
5 think he answered your question.

6 THE WITNESS: That conference I did
7 not attend.

8 MS. MAINIGI: Okay. Thank you.

9 Thank you, Mr. Bennett.

10 BY MS. MAINIGI:

11 Q. According to the DEA web site, I'll
12 represent to you that web site says that there
13 was a pharmaceutical industry conference in
14 2009.

15 Do you recall that conference?

16 MS. SINGER: Objection to
17 testifying.

18 MR. UTTER: If you know, go ahead.

19 THE WITNESS: I -- I just -- I don't
20 recall that -- I don't recall what conferences
21 occurred during those years. I just know that
22 we've had these conferences. I know they were
23 scheduled. But I -- I -- I don't recall if
24 there was a pharmaceutical industry conference
25 at that point in time, no.

BY MS. MAINIGI:

Q. Were you aware of the fact that there was not a distributor-specific conference between 2007 and 2013?

MS. SINGER: Objection. Foundation.

MR. BENNETT: Same objection.

MR. UTTER: Same objection.

Go ahead.

THE WITNESS: We wouldn't do a distributor-specific conference. Because manufacturers also have coincident activities as a distributor, we would always invite them.

BY MS. MAINIGI:

Q. Are you saying that the 2013 distributor conference was not, in fact, just for distributors?

A. I'm saying that, between the time period we -- you just talked about, we mixed the distributors.

Now, I'm sure that that distributor conference had manufacturers as well. Because, again, a manufacturer has a coincidental activity of distribution. And because of that, they are held to the same standards. So they probably -- I'm almost 99 percent that they

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were there as well.

Q. Were you aware of the fact that there's no conference for distributors or manufacturers between 2009 and 2013?

MS. SINGER: Objection. Asked and answered. Lack of foundation.

MR. UTTER: Same objection.

MR. BENNETT: Objection. Vague.

THE WITNESS: I -- I just don't know. We had conferences during that time period. I just don't know what the title of those conference are or who the attendees were.

But I'm pretty sure that we didn't go that long a period of time without having some kind of conference that involved distributors.

BY MS. MAINIGI:

Q. Well, if the web site doesn't really reflect any conference between 2009 and 2013, do you think the web site is wrong?

MS. SINGER: Objection. Foundation.

THE WITNESS: I don't know.

MS. SINGER: Argumentative.

MR. BENNETT: Same objection. Also scope.

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MR. UTTER: Same objection.

Go ahead.

THE WITNESS: I -- I don't know.

BY MS. MAINIGI:

Q. Do you recall a 2015 GAO report relating to DEA's communications with registrants?

A. Yes.

Q. And do you recall one of GAO's recommendations was that DEA needed to provide greater guidance to registrants regarding its regulations?

MS. SINGER: Objection. Form.

MR. BENNETT: Objection. Scope.

THE WITNESS: I recall that GAO did -- did an audit of DEA, and they made recommendations, yes.

BY MS. MAINIGI:

Q. And do you recall that particular type of recommendation, that DEA ought to provide guidance regarding the Controlled Substances Act and its regulations to registrants?

MS. SINGER: Objection. Foundation.

MR. BENNETT: Objection. Scope.

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MR. UTTER: Same objection.

Go ahead.

THE WITNESS: That -- it might have been. I don't have the report. So I -- I mean I -- it's been a few years since I read that report.

BY MS. MAINIGI:

Q. Well, did you disagree -- do you remember disagreeing with that recommendation?

A. Well --

MR. UTTER: Well --

MS. SINGER: Objection. Argumentative.

MR. BENNETT: Objection. Scope.

To the extent this would require you to reveal any nonpublic recommendations you made or you're aware of or internal deliberative process of the DEA, you're not authorized to disclose that.

To the extent that there were public comments regarding the GAO report that you issued, you may testify regarding your personal recollection of such comments.

MR. UTTER: Objection.

Going ahead.

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MS. SINGER: Objection. Foundation.

THE WITNESS: That report had some serious flaws in it. The report was based on surveys done by manufacturers and distributors who had just come off of investigations conducted by DEA.

And all of them -- the complaints, if I remember correctly, were, "DEA was not communicating with us."

Even though DEA sat down with them in distributor initiative, even though we sent the letters, even though we had inspectors in their facilities doing their jobs. But GAO still felt, based on a survey done by -- in the industry, that we were not adequately communicating with them.

I remember that. And I remember we did have responses to each of the GAO recommendations. But I don't have them here, and I...

BY MS. MAINIGI:

Q. Well, maybe -- maybe we'll look at it next time.

But -- so you didn't agree with GAO's recommendation that DEA ought to provide

guidance regarding its regulations to registrants?

MS. SINGER: Objection. Asked and answered. Misstates the witness's testimony.

MR. BENNETT: And objection. Scope. Same instructions regarding the scope of your authorization on what you can and cannot testify about.

MR. UTTER: Go ahead.

THE WITNESS: I'm -- I'm sorry. You got to repeat the question.

BY MS. MAINIGI:

Q. Sure.

Did you -- it sounds like -- but tell me if I'm wrong.

It sound like you disagreed with the GEAO [sic] recommendation that DEA needed to provide greater guidance to its registrants.

MS. SINGER: Objection. Foundation.

MR. BENNETT: Same instructions.

MR. UTTER: Go ahead.

THE WITNESS: Like I said, I don't have the report handy. But it seems to me we outlined all of the -- all of the communication we had with the industry. We outlined all of

the avenues that industry could get answers to their questions. We outlined all of the inspections that were conducted for industry in their manufacturing and distribution sites.

We did all of that. And I -- if I remember correctly, GAO had no specific recommendations other than we should communicate or provide guidance on the regs and the statute.

BY MS. MAINIGI:

Q. To your knowledge, did that happen?

A. If I'm not mistaken, I -- I retired before a response was done on that.

Q. Now, do you remember testifying -- I think you were asked about it earlier.

Do you remember testifying before the Court in Cleveland in this particular matter in January of last year?

A. Yes.

Q. And I think you testified earlier that you were retained by Motley Rice to come testify there?

A. Yes.

Q. And I think you went over with the Court what was a suspicious orders and what was

a suspicious pattern.

Do you remember that?

A. No. I don't remember that.

Q. You don't remember that?

Do you remember telling the Court that there had been ten years of guidance provided by DEA related to what a suspicious order was?

MR. BENNETT: Object to form.

MS. SINGER: Objection. Foundation.

THE WITNESS: I -- I don't have any document. I'd like to see what was said.

Do you have --

BY MS. MAINIGI:

Q. Do you --

-- have a document that shows what I exactly said?

Q. Well, to the extent -- let me ask you this: Are you aware of ten years of guidance being provide by the DEA to registrants regarding what a suspicious order is?

MS. SINGER: Objection. Asked and answered repeatedly.

MR. BENNETT: Objection. Vague.

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MR. UTTER: Same objection. Asked and answered.

You can tell her again.

THE WITNESS: The -- the guidance has always been the same over the last ten years.

BY MS. MAINIGI:

Q. The regulation?

A. The regulation, yes.

Q. You think you told Court that, that there had been ten years of --

A. I -- I don't --

Q. -- ten years of the regulation as guidance?

MS. SINGER: Objection. Foundation. The witness has asked to be shown the document.

THE WITNESS: I -- I don't recall what I said. But again, I -- as I said previously, if you have a transcript or -- or presentation or something that I could look at, that would -- that would help me -- help my recollection.

BY MS. MAINIGI:

Q. Has there been ten years of guidance provided by the DEA to registrants as to what

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constitutes a suspicious order?

MS. SINGER: Objection. Asked and answered.

MR. BENNETT: Objection. Vague.

MR. UTTER: Same objection.

One more time.

THE WITNESS: Again, it's the regulation, the meetings, the letters, the Southwood decision. I mean -- yeah.

BY MS. MAINIGI:

Q. The letters meaning your '07 and '06 letters, right?

A. Yes.

Q. Any other letters?

MS. SINGER: Objection. Asked and answered.

THE WITNESS: I'm not aware of any other letters.

The Southwood decision. The inspections where -- where we've had inspectors on site every year going into different facilities. And the conferences where we talked about suspicious order monitoring.

I mean we -- I think that -- that pretty much covers it.

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BY MS. MAINIGI:

Q. You had a slide deck at that conference, right?

A. Yes.

Q. Do you still have that slide deck?

A. I'd have to look. It was a --

Q. We'd ask that you produce that.

Did you have some talking points for that conference?

A. No.

Q. Did you have any handwritten notes that you made in advance to the conference?

A. I don't know if I have any notes. If I had any notes, they wouldn't be -- I didn't keep them. But I don't recall if I used notes. I think I went right off the slides.

MS. MAINIGI: Well, Counsel, we'd ask that those slides and any related notes be produced.

I'm going to go ahead --

MR. UTTER: I'll take it under advisement.

MS. MAINIGI: -- and stop right now because my colleague --

MR. UTTER: I'm not agreeing to

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that. I said I'll take it under advisement.

MS. MAINIGI: Understood.

My colleague just needs to authenticate a document. My understanding is he already discussed it with you.

MR. BENNETT: Yeah. That -- that's fine.

MS. MAINIGI: Thank you very much, Mr. Rannazzisi.

FURTHER EXAMINATION BY COUNSEL FOR WALMART

BY MR. STEPHENS:

Q. Mr. Rannazzisi --

A. Yes.

Q. -- just very quickly.

I showed you a document earlier that was marked as Exhibit 10. Your counsel asked me for the Bates numbered version of that, which I have here now. It is Bates No. US -- US-DEA-00002413.

MR. STEPHENS: And I'd ask the court reporter to mark it as the next in order, please.

(Deposition Exhibit 14 was marked for identification.)

BY MR. STEPHENS:

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1 Q. So, Mr. Rannazzisi, just very
2 quickly --

3 A. Yes.

4 Q. -- I'm just going to ask you if you
5 recognize this document.

6 A. It's one of the PowerPoints that we
7 did on the Internets.

8 Q. Okay. And this is a -- a document
9 that reflects a presentation that you may have
10 given?

11 A. I may have given it. Somebody else
12 in my staff may have given it.

13 Q. Okay. And the date at the bottom
14 left is March of 2007; is that right?

15 A. Yes.

16 Q. Okay. And it relates to Internet
17 pharmacies?

18 A. Yes.

19 MR. STEPHENS: All right. I have no
20 further questions. Thank you.

21 THE VIDEOGRAPHER: We are off the
22 record at 5:02 p.m.

23 And This concludes the test --
24 today's testimony given by Joseph Rannazzisi.

25 The total number of media units used

1 was seven and will be retained by Veritext
2 Legal Solutions.

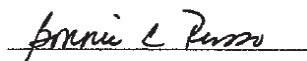
3 MR. BENNETT: And what was our total
4 time on the record?

5 THE VIDEOGRAPHER: Five hours -- six
6 hours and three minutes.

7 (Whereupon, the proceeding was
8 adjourned at 5:03 p.m.)

1 CERTIFICATE OF NOTARY PUBLIC

2 I, Bonnie L. Russo, the officer before
3 whom the foregoing deposition was taken, do
4 hereby certify that the witness whose testimony
5 appears in the foregoing deposition was duly
6 sworn by me; that the testimony of said witness
7 was taken by me in shorthand and thereafter
8 reduced to computerized transcription under my
9 direction; that said deposition is a true
10 record of the testimony given by said witness;
11 that I am neither counsel for, related to, nor
12 employed by any of the parties to the action in
13 which this deposition was taken; and further,
14 that I am not a relative or employee of any
15 attorney or counsel employed by the parties
16 hereto, nor financially or otherwise interested
17 in the outcome of the action.

18 

19 Notary Public in and for
20 the District of Columbia

21 My Commission expires: June 30, 2020

1 Veritext Legal Solutions
2 1100 Superior Ave
3 Suite 1820
4 Cleveland, Ohio 44114
5 Phone: 216-523-1313

6 April 28, 2019

7 To: GREGORY M. UTTER

8 Case Name: In Re: National Prescription Opiate Litigation v.

9 Veritext Reference Number: 3301876

10 Witness: Joseph Rannazzisi Deposition Date: 4/26/2019

11 Dear Sir/Madam:

12 Enclosed please find a deposition transcript. Please have the witness
13 review the transcript and note any changes or corrections on the
14 included errata sheet, indicating the page, line number, change, and
15 the reason for the change. Have the witness' signature notarized and
16 forward the completed page(s) back to us at the Production address
17 shown
18 above, or email to production-midwest@veritext.com.

19 If the errata is not returned within thirty days of your receipt of
20 this letter, the reading and signing will be deemed waived.

21 Sincerely,
22 Production Department

23 NO NOTARY REQUIRED IN CA

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 3301876
CASE NAME: In Re: National Prescription Opiate Litigation v.
DATE OF DEPOSITION: 4/26/2019
WITNESS' NAME: Joseph Rannazzisi
In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.
I have made no changes to the testimony
as transcribed by the court reporter.

Date _____ Joseph Rannazzisi
Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;
They signed the foregoing Sworn
Statement; and
Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal

this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 3301876
CASE NAME: In Re: National Prescription Opiate Litigation v.
DATE OF DEPOSITION: 4/26/2019
WITNESS' NAME: Joseph Rannazzisi

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date	Joseph Rannazzisi
------	-------------------

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;
They have listed all of their corrections
in the appended Errata Sheet;
They signed the foregoing Sworn
Statement; and
Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

ERRATA SHEET
VERITEXT LEGAL SOLUTIONS MIDWEST

ASSIGNMENT NO: 3301876

PAGE/LINE(S)	CHANGE	REASON
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[illegible]

Date _____ Joseph Rannazzisi
SUBSCRIBED AND SWORN TO BEFORE ME THIS _____
DAY OF _____, 20____.

Notary Public

Commission Expiration Date

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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